96TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
No. 96-1367

MENTAL HEALTH SYSTEMS ACT

SEPTEMBER 22, 1980.—Ordered to be printed

Mr. STAGGERS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 1177]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1177) to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Mental Health Systems Act".

TABLE OF CONTENTS

Sec. 1. Short title and table of contents.
Sec. 2. Findings.

TITLE I—GENERAL PROVISIONS

PART A—DEFINITIONS

Sec. 101. Definition of community mental health center.
Sec. 102. Other definitions.

PART B—STATE ADMINISTRATIVE RESPONSIBILITIES

Sec. 105. State mental health authority.
Sec. 106. Mental health service areas.
Sec. 107. Allotments to States to improve the administration of State mental health programs.

TITLE II—GRANT PROGRAMS

Sec. 201. Grants for community mental health centers.
Sec. 202. Grants for services for chronically mentally ill individuals.
Sec. 203. Grants for services for severely mentally disturbed children and adolescents.
Sec. 204. Grants for mental health services for elderly individuals and other priority populations.
Sec. 205. Grants for non-revenue-producing services.
Sec. 206. Grants for mental health services in health care centers.
Sec. 207. Grants and contracts for innovative projects.
Sec. 208. Grants for the prevention of mental illness and the promotion of mental health.

TITLE III—GENERAL PROVISIONS RESPECTING GRANT PROGRAMS

PART A—STATE MENTAL HEALTH SERVICE PROGRAMS

Sec. 301. State mental health services programs.
Sec. 302. Contents of programs.
Sec. 303. Mental health provisions of State health plans.

PART B—APPLICATIONS AND RELATED PROVISIONS

Sec. 305. State administration.
Sec. 306. Processing of applications by State mental health authorities.
Sec. 307. Applications.
Sec. 308. Indian tribes and organizations.
Sec. 309. Procedures.

PART C—PERFORMANCE

Sec. 315. Performance contracts.
Sec. 316. Performance standards.
Sec. 317. Evaluation and monitoring.

PART D—ENFORCEMENT

Sec. 321. Enforcement.

PART E—MISCELLANEOUS

Sec. 325. National Institute of Mental Health Prevention Unit.
Sec. 326. Technical assistance.
Sec. 327. Indirect provision of services.
Sec. 328. Cooperative agreements.

TITLE IV—ASSOCIATE DIRECTOR FOR MINORITY CONCERNS

Sec. 401. Associate Director for Minority Concerns.

TITLE V—MENTAL HEALTH RIGHTS AND ADVOCACY

Sec. 501. Bill of rights.
Sec. 502. Grants for protection and advocacy programs.

TITLE VI—RAPE PREVENTION AND CONTROL

Sec. 601. Rape prevention and control.
Sec. 602. Grants for services for rape victims.

TITLE VII—EXTENSION OF COMMUNITY MENTAL HEALTH CENTERS ACT

Sec. 701. One-year extension of Community Mental Health Centers Act.

Public Laws: 96th Congress / 2nd Session / 1980

TITLE VIII—MISCELLANEOUS

Sec. 801. Employee protection.
Sec. 802. Report on shelter and basic living needs of chronically mentally ill individuals.
Sec. 803. Obligated service for mental health traineeships.
Sec. 804. Conforming amendments.
Sec. 805. Special pay for Public Health Service physicians and dentists.
Sec. 806. Contract authority.

TITLE IX—MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

Sec. 901. Mechanized claims processing and information retrieval systems.

FINDINGS

SEC. 2. The Congress finds—

(1) despite the significant progress that has been made in making community mental health services available and in improving residential mental health facilities since the original community mental health centers legislation was enacted in 1963, unserved and underserved populations remain and there are certain groups in the population, such as chronically mentally ill individuals, children and youth, elderly individuals, racial and ethnic minorities, women, poor persons, and persons in rural areas, which often lack access to adequate private and public mental health services and support services;

(2) the process of transferring or diverting chronically mentally ill individuals from unwarranted or inappropriate institutionalized settings to their home communities has frequently not been accompanied by a process of providing those individuals with the mental health and support services they need in community-based settings;

(3) the shift in emphasis from institutional care to community-based care has not always been accompanied by a process of affording training, retraining, and job placement for employees affected by institutional closure and conversion;

(4) the delivery of mental health and support services is typically uncoordinated within and among local, State, and Federal entities;

(5) mentally ill persons are often inadequately served by (A) programs of the Department of Health and Human Services such as medicare, medicaid, supplemental security income, and social services, and (B) programs of the Department of Housing and Urban Development, the Department of Labor, and other Federal agencies;

(6) health care systems often lack general health care personnel with adequate mental health care training and often lack mental health care personnel and consequently many individuals with some level of mental disorder do not receive appropriate mental health care;

(7) present knowledge of methods to prevent mental illness through discovery and elimination of its causes and through early detection and treatment is too limited;

(8) a comprehensive and coordinated array of appropriate private and public mental health and support services for all people in need within specific geographic areas, based upon a

CMS Library
C2-07-13
7500 Security Blvd.
Baltimore, Maryland 21244

cooperative local-State-Federal partnership, remains the most effective and humane way to provide a majority of mentally ill individuals with mental health care and needed support; and

(9) because of the rising demand for mental health services and the wide disparity in the distribution of psychiatrists, clinical psychologists, social workers, and psychiatric nurses, there is a shortage in the medical specialty of psychiatry and there are also shortages among the other health personnel who provide mental health services.

TITLE I—GENERAL PROVISIONS

PART A—DEFINITIONS

DEFINITION OF COMMUNITY MENTAL HEALTH CENTER

SEC. 101. (a) For purposes of this Act, the term "community mental health center" means a legal entity (1) through which comprehensive mental health services are provided—

(A) principally to individuals residing in a mental health service area, with special attention to those who are chronically mentally ill,

(B) within the limits of its capacity, to any individual residing or employed in such area regardless of ability to pay for such services, current or past health condition, or any other factor, and

(C) in the manner prescribed by subsection (b),

and (2) which is organized in the manner prescribed by subsections (c) and (d).

(b)(1) The comprehensive mental health services which shall be provided through a community mental health center are as follows:

(A) Beginning on the date the community mental health center is established for purposes of section 201, the services provided through the center shall include—

(i) inpatient services, emergency services, and outpatient services;

(ii) assistance to courts and other public agencies in screening residents of the center's mental health service area who are being considered for referral to a State mental health facility for inpatient treatment to determine if they should be so referred and provision, where appropriate, of treatment for such persons through the center as an alternative to inpatient treatment at such a facility;

(iii) provision of followup care for residents of its mental health service area who have been discharged from inpatient treatment at a mental health facility;

(iv) consultation and education services which—

(I) are for a wide range of individuals and entities involved with mental health services, including health professionals, schools, courts, State and local law enforcement and correctional agencies, members of the clergy, public welfare agencies, health services delivery agencies, and other appropriate entities; and

(II) include a wide range of activities (other than the provision of direct clinical services) designed to develop

effective mental health programs in the center's mental health service area, promote the coordination of the provision of mental health services among various entities serving the center's mental health service area, increase the awareness of the residents of the center's mental health service area of the nature of mental health problems and the types of mental health services available, and promote the prevention and control of rape and the proper treatment of the victims of rape; and

(v) the services described in subparagraph (B) or, in lieu of such services, the center shall have a plan approved by the Secretary under which the center will, during the three-year period beginning on such establishment date, assume in increments the provision of the services described in subparagraph (B) and will upon the expiration of such three-year period provide all the services described in subparagraph (B).

(B) After the expiration of such three-year period, a community mental health center shall provide, in addition to the services required by subparagraph (A), services which include—

(i) day care and other partial hospitalization services;

(ii) a program of specialized services for the mental health of children, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(iii) a program of specialized services for the mental health of the elderly, including a full range of diagnostic, treatment, liaison, and followup services (as prescribed by the Secretary);

(iv) a program of transitional half-way house services for mentally ill individuals who are residents of its mental health service area and who have been discharged from inpatient treatment in a mental health facility or would without such services require inpatient treatment in such a facility; and

(v) provision of each of the following service programs (other than a service program for which there is not sufficient need (as determined by the Secretary) in the center's mental health service area, or the need for which in the center's mental health service area the Secretary determines is currently being met):

(I) A program for the prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics.

(II) A program for the prevention and treatment of drug addiction and abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems.

(2) The provision of comprehensive mental health services through a center shall be coordinated with the provision of services by other health and social service agencies (including public mental health facilities) in or serving residents of the center's mental health service area to ensure that persons receiving services through the center have access to all such health and social services as they may re-

quire. The center's services (A) may be provided at the center or satellite centers through the staff of the center or through appropriate arrangements with health professionals and others in the center's mental health service area, or, with the approval of the Secretary, in the case of inpatient services, emergency services, partial hospitalization, transitional half-way house services, and certain specialized services, through appropriate arrangements with health professionals and others serving the residents of the mental health service area, (B) shall be available and accessible to the residents of the area promptly, as appropriate, and in a manner which preserves human dignity and assures continuity and high quality care and which overcomes geographic, cultural, linguistic, and economic barriers to the receipt of services, and (C) when medically necessary, shall be available and accessible twenty-four hours a day and seven days a week.

(3)(A) The mental health care of every patient of a center shall be under the supervision of a member of the professional staff of the center. The center shall provide for having a member of its professional staff available to furnish necessary mental health care in case of an emergency.

(B) Any medical services provided by a center shall be under the supervision of a physician unless otherwise permitted by State law. Whenever possible, the supervising physician shall be a psychiatrist.

(c)(1) Except as provided in paragraph (2) or (3), a community mental health center shall have a governing body which (A) is composed of individuals who reside in the center's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (B) is required to meet at least once a month, to establish general policies for the center (including a schedule of hours during which services will be provided), to approve the center's annual budget, and to approve the selection of a director for the center. At least one-half of the members of such body shall be individuals who are not providers of health care.

(2)(A) Except as provided in subparagraph (B), in the case of a community mental health center which is operated by a governmental agency or a hospital, such center may, in lieu of meeting the requirements of paragraph (1), appoint a committee which advises it with respect to the operations of the center and which is composed of individuals who reside in the center's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care. A center to which this subparagraph applies shall submit to such a committee for its review any application for a grant under section 201.

(B) Subparagraph (A) does not apply with respect to a community mental health center which on the date of the enactment of this Act had a governing body which met the requirements of paragraph (1).

(3) Paragraph (1) does not apply to a community mental health center which is operated by a primary care center, community health center, or migrant center which meets the applicable requirements of part D of title III of the Public Health Service Act.

(4) For purposes of paragraphs (1) and (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act.

(d) A center shall, in accordance with regulations prescribed by the Secretary, have (1) an ongoing quality assurance program (including multidisciplinary utilization and peer review systems) respecting the center's services, (2) an integrated medical records system (including a drug use profile) which, in accordance with applicable Federal and State laws respecting confidentiality, is designed to provide access to all past and current information regarding the health status of each patient and to maintain safeguards to preserve confidentiality and to protect the rights of the patient, (3) a multidisciplinary professional advisory board, which is composed of members of the center's professional staff, to advise the governing board or the advisory committee in establishing policies governing medical and other services provided by such staff on behalf of the center, and (4) an identifiable administrative unit which shall be responsible for providing the consultation and education services described in subsection (b)(1)(A)(iv). The Secretary may waive the requirements of clause (4) with respect to any center if he determines that because of the size of such center or because of other relevant factors the establishment of the administrative unit described in such clause is not warranted.

OTHER DEFINITIONS

SEC. 102. For purposes of this Act:

(1) The term "Secretary" means the Secretary of Health and Human Services.

(2) The term "State" includes (in addition to the fifty States) the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(3) The term "State mental health authority" means the agency of a State designated under section 105 to be responsible for the mental health programs of the State.

(4) The term "mental health service area" means an area established under section 106.

(5) The term "nonprofit", as applied to any entity, means an entity which is owned and operated by one or more corporations or associations no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or person.

(6) The term "priority population group" means an identifiable population group in a mental health service area which is unserved or underserved by mental health programs in such area as determined under a health systems plan or a State health plan in effect under section 1513 or 1524 of the Public Health Service Act.

(7) The term "Governor" means the chief executive officer of a State.

Part B—State Administrative Responsibilities

STATE MENTAL HEALTH AUTHORITY

Sec. 105. Each State shall designate an agency of the State to be responsible for the mental health programs of the State.

MENTAL HEALTH SERVICE AREAS

Sec. 106. (a) Each catchment area of a community mental health center designated under the Community Mental Health Centers Act is redesignated as a mental health service area.

(b) A mental health service area in a State shall, except to the extent permitted under regulations of the Secretary, have boundaries which conform to or are within the boundaries of a health service area established under title XV of the Public Health Service Act and, to the extent practicable, conform to boundaries of one or more school districts or political or other subdivisions in the State.

(c)(1) The State mental health authority of a State shall review the boundaries of any mental health service area in the State which does not meet the requirements of subsection (b) and shall make such revisions in the boundaries of the area as may be necessary to meet such requirements.

(2) The State mental health authority of a State may review the boundaries of any mental health service area in the State and may revise the boundary of any such area to—

(A) ensure that the size of such area is such that the services to be provided in the area are available and accessible to the residents of the area promptly, as appropriate, and

(B) ensure that the boundary of such area eliminates, to the extent possible, barriers to access to the services provided in the area, including barriers resulting from an area's physical characteristics, its residential patterns, its economic and social groupings, and its available transportation.

(3) In conducting a review of a boundary under paragraph (1) or (2) a State mental health authority shall provide notice of its review and shall provide a reasonable opportunity for a hearing on its review and any proposed boundary revision.

ALLOTMENTS TO STATES TO IMPROVE THE ADMINISTRATION OF STATE MENTAL HEALTH PROGRAMS

Sec. 107. (a) For the purpose of assisting State mental health authorities to improve the administration of State mental health programs and to carry out their activities under this Act relating to—

(1) planning and program design,
(2) data collection,
(3) data analysis,
(4) research,
(5) evaluation,
(6) setting and enforcing regulatory and other standards,
(7) reporting to the Secretary, and
(8) establishing, expanding, or operating mental health patients rights protection programs,

the Secretary shall, for each fiscal year and in accordance with regulations, allot to the States the sums appropriated for such year

under subsection (c) on the basis of the population and the financial need of the respective States. The populations of the States shall be determined on the basis of the latest figures for the populations of the States available from the Department of Commerce.

(b) No allotment may be made to a State under subsection (a) unless the State has submitted to the Secretary an application for the allotment containing such information as the Secretary may require.

(c) There are authorized to be appropriated for allotments under subsection (a), $15,000,000 for the fiscal year ending September 30, 1982, $15,000,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984.

(d) Effective September 30, 1981, section 314(g) of the Public Health Service Act is repealed.

TITLE II—GRANT PROGRAMS

GRANTS FOR COMMUNITY MENTAL HEALTH CENTERS

SEC. 201. (a)(1) The Secretary may make grants to any public or nonprofit private community mental health center to assist it in meeting its costs of operation (other than costs related to construction).

(2) No application for a grant under paragraph (1) for a community mental health center which has not received a grant for its operation under the Community Mental Health Centers Act may be approved unless the application is accompanied by assurances, satisfactory to the Secretary, that the grant applied for and the State, local, and other funds and the fees, premiums, and third-party reimbursements which the applicant may reasonably be expected to collect in the year for which the grant would be made are sufficient to meet the projected costs of operation for that year.

(3) Grants under paragraph (1) may only be made for a grantee's costs of operation during the first eight years after its establishment. In the case of a community mental health center which received a grant under section 220 of the Community Mental Health Centers Act (as in effect before the date of enactment of the Community Mental Health Centers Amendments of 1975) or section 203(a) of such Act (as in effect after such date), such center shall, for purposes of grants under paragraph (1), be considered as having been in operation since its establishment for a number of years equal to the sum of the number of grants it received under such sections and the number of grants it has received under paragraph (1).

(b) Each grant under subsection (a) to a community mental health center shall be made for the costs of its operation for the one-year period beginning on the first day of the month in which such grant is made.

(c)(1) The amount of a grant for any year made under subsection (a) shall be the lesser of the amounts computed under subparagraph (A) or (B) as follows:

> *(A) An amount equal to the amount by which the grantee's projected costs of operation for that year exceed the total of State, local, and other funds and of the fees, premiums, and third-party reimbursements which the grantee may reasonably be expected to collect in that year.*

(B)(i) Except as provided in clause (ii), an amount equal to the following percentages of the grantee's projected costs of operation: 80 percent of such costs for the first year of its operation, 65 percent of such costs for the second year of its operation, 50 percent of such costs for the third year of its operation, 35 percent of such costs for the fourth year of its operation, 30 percent of such costs for the fifth and sixth years of its operation, and 25 percent of such costs for the seventh and eighth years of its operation.

(ii) In the case of a grantee providing services for persons in an area designated by the Secretary as an urban or rural poverty area, an amount equal to the following percentages of the grantee's projected costs of operation: 90 percent of such costs for the first two years of its operation, 80 percent of such costs for the third year of its operation, 70 percent of such costs for the fourth year of its operation, 60 percent of such costs for the fifth year of its operation, 50 percent of such costs for the sixth year of its operation, 40 percent of such costs for the seventh year of its operation, and 30 percent of such costs for the eighth year of its operation.

(2) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by a center or entity,

exceeds its actual costs of operation for that year, and if the center is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the center may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center (i) to expand and improve its services, (ii) to increase the number of persons eligible to receive services from such a center which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d)(1) For initial grants under subsection (a) there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984.

(2) There are authorized to be appropriated for the fiscal year ending September 30, 1982, and for each of the next nine fiscal years such sums as may be necessary to make grants, for the number of years prescribed by subsection (a)(3), to community mental health centers which received an initial grant for operations under the Community Mental Health Centers Act or this Act for a fiscal year beginning before October 1, 1984.

(3) Of the total amount appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary may obligate not more than 5 percent for grants under subsection (a) to a community mental health center which is operated by a hospital and which has an advisory committee as prescribed by section 101(c)(2).

GRANTS FOR SERVICES FOR CHRONICALLY MENTALLY ILL INDIVIDUALS

SEC. 202. (a)(1) The Secretary may make grants to any State mental health authority, community mental health center, or other public or nonprofit private entity for projects for the provision of mental health and related support services for chronically mentally ill individuals. No grant may be made under this subsection for a project unless the project provides for at least the following:

(A) The identification of the chronically mentally ill individuals residing in the area to be served by the project.

(B) Assistance to such individuals in gaining access to essential mental health services, medical and dental care and rehabilitation services, and employment, housing, and other support services designed to enable chronically mentally ill individuals to function outside of inpatient institutions to the maximum extent of their capabilities.

(C) Assuring the availability, for each such chronically mentally ill individual who needs both mental health and related support services, of an individual to assume responsibility for seeing to it that the individual receives any such service that the individual needs.

(D) Coordinating the provision of mental health and related support services to such individuals with the provision of other services to them.

(2) A grant under this subsection for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located, except that, if the Secretary finds that because of exceptional circumstances in the mental health service area the chronically mentally ill individuals in the area would be otherwise underserved, a grant may be made to any other public or private nonprofit entity.

(3) In considering applications for grants under this subsection, the Secretary shall give special consideration to applications for projects designed to supplement and strengthen existing community support services.

(b) The Secretary may make grants to any State mental health authority to—

(1) improve the skills of personnel providing services to chronically mentally ill individuals by providing or arranging for the provision of inservice training, other training, or retraining for such personnel; or

(2) coordinate the operations of State agencies or intrastate regional agencies responsible for mental health and related support services for chronically mentally ill individuals, and coordinate the provision of mental health and support services for chronically mentally ill individuals with the provision of services to such individuals under titles IV, V, XVI, XVIII, XIX, and XX of the Social Security Act, the Rehabilitation Act of 1973, the United States Housing Act, the Comprehensive Employment and Training Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Older Americans Act, and other Federal and State statutes.

(c)(1) No entity may receive more than eight grants under this section.

(2) The amount of any grant under subsection (a) or (b) shall be determined by the Secretary, except that the amount of—

(A) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(B) the third grant may not exceed 80 percent of such costs;

(C) the fourth grant may not exceed 70 percent of such costs;

(D) the fifth grant may not exceed 60 percent of such costs;

(E) the sixth grant may not exceed 50 percent of such costs;

(F) the seventh grant may not exceed 40 percent of such costs; and

(G) the eighth grant may not exceed 30 percent of such costs.

(3) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (i) to expand and improve its services, (ii) to increase the number of persons eligible to receive services from such an entity which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d)(1) Except as provided in paragraph (3), no grant may be made to an entity under subsection (a) or (b) unless the entity meets the requirements of paragraph (2).

(2)(A) Except as provided in subparagraph (B), an applicant for a grant under subsection (a) to provide the services described in that subsection shall have a governing body which (i) is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

(B) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under subsection (a) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under subsection (a) or (b) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex,

place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(3) Paragraph (1) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act.

(4) For purposes of paragraph (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act.

(e) For grants under subsections (a) and (b) there are authorized to be appropriated $45,000,000 for the fiscal year ending September 30, 1982, $50,000,000 for the fiscal year ending September 30, 1983, and $60,000,000 for the fiscal year ending September 30, 1984.

GRANTS FOR SERVICES FOR SEVERELY MENTALLY DISTURBED CHILDREN AND ADOLESCENTS

SEC. 203. (a) The Secretary may make grants to any State mental health authority, community mental health center, or other public or nonprofit private entity for the provision of mental health and related support services for severely mentally disturbed children and adolescents and for members of their families. The services which may be provided under a grant under this subsection shall include at least one of the following:

(1) The identification and assessment of the needs of severely mentally disturbed children and adolescents and the provision of needed mental health and related support services which are not provided by existing programs.

(2) Assuring the availability of appropriate personnel to be responsible for providing, or arranging for the provision of, the needed mental health and related support services for such children and adolescents.

(3) The provision of auxiliary mental health services under the Education for all Handicapped Children Act of 1975 to such children and adolescents who are handicapped.

(4) The establishment of cooperative arrangements with juvenile justice authorities, educational authorities, and other authorities and agencies that come in contact with such children and adolescents to ensure referral of such children and adolescents for appropriate mental health and related support services.

A grant made under this subsection for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located, except that, if the Secretary finds that because of exceptional circumstances in the mental health service area the severely mentally disturbed children and adolescents in the area would otherwise be underserved, a grant may be made to any other public or private nonprofit entity.

(b) The Secretary may make grants to any public entity for projects to coordinate the provision of mental health and related support services to severely mentally disturbed children and adolescents with the activities of community agencies and State agencies and with the provision of services available to such children and adoles-

cents under titles IV, V, XVI, XIX, and XX of the Social Security Act, the Education for All Handicapped Children Act of 1975, the Developmental Disabilities Assistance and Bill of Rights Act, the Rehabilitation Act of 1973, and other Federal and State statutes.

(c)(1) No entity may receive more than eight grants under this section.

(2) The amount of any grant under subsection (a) or (b) shall be determined by the Secretary, except that the amount of—

(A) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(B) the third grant may not exceed 80 percent of such costs;

(C) the fourth grant may not exceed 70 percent of such costs;

(D) the fifth grant may not exceed 60 percent of such costs;

(E) the sixth grant may not exceed 50 percent of such costs;

(F) the seventh grant may not exceed 40 percent of such costs; and

(G) the eighth grant may not exceed 30 percent of such costs.

(3) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (i) to expand and improve its services, (ii) to increase the number of persons eligible to receive services from such an entity which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d)(1) Except as provided in paragraph (3), no grant may be made to an entity under subsection (a) or (b) unless the entity meets the requirements of paragraph (2).

(2)(A) Except as provided in subparagraph (B), an applicant for a grant under subsection (a) to provide the services described in that subsection shall have a governing body which (i) is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

(B) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its prima-

ry purpose the provision of mental health services under grants under subsection (a) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under subsection (a) or (b) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(3) Paragraph (1) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act.

(4) For purposes of paragraph (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act.

(e) For grants under subsections (a) and (b) there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1982, $12,000,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984.

GRANTS FOR MENTAL HEALTH SERVICES FOR ELDERLY INDIVIDUALS AND OTHER PRIORITY POPULATIONS

SEC. 204. (a)(1) The Secretary may make grants to any public or nonprofit private entity for projects for services for elderly individuals. Each such project shall include at least the following:

(A) The location of elderly individuals in the mental health service area or areas served by the entity who are in need of mental health services.

(B) The provision or arrangement for the provision of medical differential diagnoses of elderly individuals in such area or areas to distinguish between their need for mental health services and other medical care.

(C) The specification of the mental health needs of elderly individuals in such area or areas and the mental health and support services required to meet such needs.

(D) The provision of—

(i) the mental health and support services specified under subparagraph (C) in the communities in such area or areas, or

(ii) such services for elderly individuals in nursing homes and intermediate care facilities in such area or areas and training of the employees of such homes and facilities in the provision of such services.

(2) The Secretary may make grants to any public or nonprofit private entity in a mental health service area in which, as determined by the Secretary, the services described in paragraph (1) are being provided to enable the entity to—

(A) assure the availability of appropriate personnel to be responsible for the provision of or for arranging for the provision of, such services to elderly individuals; or

(B) coordinate the provision of such services to elderly individuals with (i) the area agency on aging (as defined in the Older Americans Act) and other community agencies providing mental health and related support services for elderly individ-

uals, and (ii) with the provision of services available to elderly individuals under titles XVI, XVIII, XIX, and XX of the Social Security Act, the Older Americans Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act, the United States Housing Act, the Domestic Volunteer Service Act of 1973, and other Federal and State statutes.

(3)(A) No entity may receive more than eight grants under paragraph (1) or (2).

(B) The amount of any grant under paragraph (1) or (2) shall be determined by the Secretary, except that the amount of—

(i) the first and second grant may not exceed 90 pereent of the costs (as determined by the Secretary) of the project for which the grant is made;

(ii) the third grant may not exceed 80 percent of such costs;

(iii) the fourth grant may not exceed 70 percent of such costs;

(iv) the fifth grant may not exceed 60 percent of such costs;

(v) the sixth grant may not exceed 50 percent of such costs;

(vi) the seventh grant may not exceed 40 percent of such costs; and

(vii) the eighth grant may not exceed 30 percent of such costs.

(C) If in a fiscal year the sum of—

(i) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(ii) the amount of the grant received under paragraph (1) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under paragraph (1) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (I) to expand and improve its services, (II) to increase the number of persons eligible to receive services from such a entity which it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(D) A grant made under paragraph (1) for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located, except that, if the Secretary finds that because of exceptional circumstances in the mental health service area the elderly individuals in the area would otherwise be underserved, a grant may be made to any other public or private nonprofit entity.

(E)(i) Except as provided in clause (iii), no grant may be made to an entity under paragraph (1) or (2) unless the entity meets the requirements of clause (ii).

(ii)(I) Except as provided in subclause (I), an applicant for a grant under paragraph (1) to provide the services described in that paragraph shall have a governing body which is composed of individ-

uals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and which is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

(II) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under paragraph (1) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under paragraph (1) or (2) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(iii) Clause (i) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act.

(iv) For purposes of clause (ii), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act.

(b)(1) The Secretary may make grants to any public or nonprofit private entity for any project for mental health services which—

(A) is designed to serve principally one or more priority population groups in a mental health service area, and

(B) is available to all residents of the area.

(2) A grant made under paragraph (1) for a project in a mental health service area served by a community mental health center may be made only to the community mental health center or to the State mental health authority of the State in which the area is located and only if the Secretary finds that because of exceptional circumstances in the mental health service area priority populations in the area would be otherwise underserved.

(3)(A) Not more than four grants may be made under paragraph (1) to the same entity for mental health services for the same priority population group or groups, except that, if the entity is a community mental health center or other entity in a mental health service area served by a community mental health center, the number of grants which it may receive for the same population group or groups may not exceed two.

(B) In any fiscal year not more than two grants may be made under paragraph (1) for projects in one mental health service area and the total number of grants that may be made for projects in such an area under paragraph (1) may not exceed eight.

(C) The amount of any grant under paragraph (1) shall be determined by the Secretary, except that the amount of—

(i) the first such grant may not exceed 90 percent of the costs of the project (as determined by the Secretary) for which the grant is made,

(ii) the second such grant may not exceed 80 percent of such costs,

(iii) the third such grant may not exceed 70 percent of such costs, and

(iv) the fourth such grant may not exceed 60 percent of such costs.

(D) If in a fiscal year the sum of—

(i) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(ii) the amount of the grant received under paragraph (1) by an entity,

exceeds its actual costs of operation for that year and if the entity is eligible to receive a grant under paragraph (1) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the entity can demonstrate to the satisfaction of the Secretary will be used to enable the entity (I) to expand and improve its services, (II) to increase the number of persons eligible to receive services from such a entity which it is able to serve, (III) to modernize its facilities, (IV) to improve the administration of its service programs, and (V) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(4) For purposes of this subsection, if a grant could be made under subsection (a) or section 202 or 203 for a project designed primarily to serve a particular population group, such population group shall not be included in the priority population groups for which grants are authorized under this subsection.

(c) An application for a grant under subsection (b) may be approved only if—

(1) the application contains satisfactory assurances that the project for which the application is made will lead to increased or more appropriate mental health services for a priority population group or to the development of mental health services for such a group;

(2) the application contains satisfactory assurances that members of the priority population group or groups to be served by the project will be afforded reasonable opportunity to comment on performance under the project; and

(3) the applicant (A) will during the first three years that it receives a grant under subsection (b) provide outpatient mental health services and any two of the following mental health services determined to be of the greatest need for the priority population to be served by the applicant: inpatient, screening, followup, consultation and education, and emergency services, and (B) unless the applicant is a community mental health center or a State mental health authority receiving a grant under subsection (b) as authorized by paragraph (2) of that subsection, has a plan satisfactory to the Secretary for the provision of all the mental health services described in clause (A) upon the expiration of the first three years that it receives a grant under subsection (b).

The Secretary may not approve an application of an entity which has received a grant for three years under subsection (b) unless the applicant is providing all the mental health services described in paragraph (3)(A).

(d)(1) Except as provided in paragraph (3), no grant may be made to an entity under subsection (b) unless the entity meets the requirements of paragraph (2).

(2)(A) Except as provided in subparagraph (B), an applicant for a grant under subsection (b) to provide the services described in that subsection shall have a governing body which (i) is composed of individuals who reside in the entity's mental health service area and who, as a group, represent the residents of that area taking into consideration their employment, age, sex, and place of residence, and other demographic characteristics of the area, and (ii) is required to meet at least once a month, to establish general policies for the entity (including a schedule of hours during which services will be provided), to approve the entity's annual budget, and to approve the selection of a director for the entity. At least one-half of the members of such body shall be individuals who are not providers of health care.

(B) An applicant which is a hospital, a State agency, or other public or nonprofit private entity which does not have as its primary purpose the provision of mental health services under grants under subsection (b) may appoint a committee which advises it with respect to the operations of the entity which are funded with a grant under subsection (b) and which is composed of individuals who reside in the entity's mental health service area, who are representative of the residents of the area as to employment, age, sex, place of residence, and other demographic characteristics, and at least one-half of whom are not providers of health care.

(3) Paragraph (1) does not apply with respect to an entity which is a primary care center, community health center, or migrant health center and which meets the applicable requirements of part D of title III of the Public Health Service Act.

(4) For purposes of paragraph (2), the term "provider of health care" has the same meaning as is prescribed for that term by section 1531(3) of the Public Health Service Act.

(e) For grants under this section there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984. Not less than 40 percent of the amount appropriated under this subsection for any fiscal year shall be obligated by the Secretary for grants under subsection (a).

GRANTS FOR NON-REVENUE-PRODUCING SERVICES

SEC. 205. (a)(1) The Secretary may make grants to any public or nonprofit private community mental health center to assist in meeting the costs (as determined by the Secretary by regulation) of—

(A) providing the consultation and education services described in clause (iv) of section 101(b)(1)(A),

(B) providing the followup services described in clause (iii) of such section,

(C) administering the mental health service programs of the center,

(D) providing individuals who will be responsible for assuring that individuals in need of both mental health services and support services receive each of the services that they need, and

(E) any other non-revenue-producing service which the Secretary determines is appropriate for a community mental health center to provide.

(2) To be eligible for a grant under paragraph (1) a community mental health center must—

(A) have received a grant under section 203(a) of the Community Mental Health Centers Act, under section 220 of such Act as in effect before July 29, 1975, or under section 201 of this Act; and

(B) because of the limitations on the period for which a center may receive such a grant or on the number of such grants the center may receive, be no longer eligible to receive such a grant.

(b) An application for a grant under subsection (a) shall contain assurances satisfactory to the Secretary that the applicant will, during the period which it receives a grant under subsection (a), provide, at a minimum—

(1) the comprehensive mental health services described in clauses (i) through (iv) of section 101(b)(1)(A), and

(2) any service described in section 101(b)(1)(B) which the center was providing in the last year it received a grant under the Community Mental Health Centers Act or this Act for its operations.

Such an application shall also include information regarding the extent to which and manner in which the applicant has served chronically mentally ill individuals in prior years (if such service has been provided) and proposes to serve chronically mentally ill individuals during the fiscal year for which the grant is sought.

(c)(1) No community mental health center may receive more than five grants under subsection (a).

(2) The amount of a grant under subsection (a) shall be determined by the Secretary, except that no grant may exceed the product of $1.25 and the population of the mental health service area of the community mental health center receiving the grant. The population of a mental health service area shall be determined on the basis of the latest figures for the populations of the States available from the Department of Commerce.

(d) For grants under subsection (a) there are authorized to be appropriated $30,000,000 for the fiscal year ending September 30, 1982, $35,000,000 for the fiscal year ending September 30, 1983, and $40,000,000 for the fiscal year ending September 30, 1984.

GRANTS FOR MENTAL HEALTH SERVICES IN HEALTH CARE CENTERS

SEC. 206. (a)(1) For the purpose of assisting health care centers to participate appropriately in the provision of mental health services to their patients, the Secretary may make grants to—

(A) any public or nonprofit private entity which provides mental health services that include at least twenty-four-hour emergency services, outpatient services, and consultation and education services (as described in section 101(b)(1)(A)(iv)) and

has in effect an agreement of affiliation, described in paragraph (2), with an entity which is a health care center; or

(B) any public or nonprofit private health care center which has in effect an agreement of affiliation, described in paragraph (2), with an entity described in subparagraph (A).

(2) An agreement of affiliation referred to in paragraph (1) is an agreement between a mental health services entity described in paragraph (1)(A) and a health care center which agreement—

(A) describes the geographical area the residents of which will be served by the mental health services to be provided under the agreement;

(B) provides for the employment of at least one mental health professional to serve as a liaison between the parties to the agreement and includes a description of the qualifications to be required of that person and of any other professional mental health personnel to be employed under the agreement;

(C) provides satisfactory assurances that the mental health services entity will make mental health services available to patients of the center referred to it by the liaison or other mental health professionals; and

(D) includes transportation arrangements and other arrangements for effecting referral from the center to the mental health services entity of patients needing the services of such entity.

(b) Any grant under subsection (a) may be made for a project for any one or more of the following:

(1) The costs of the liaison or other mental health professionals providing services in the health care center in accordance with an agreement of affiliation.

(2) Mental health services provided by other personnel of the center which the mental health services entity determines can be appropriately provided by such personnel.

(3) Consultation and inservice training on mental health provided to personnel of the health care center by the mental health services entity.

(4) Establishing liaison between the center and other providers of mental health services or support services.

(c)(1) No entity may receive more than eight grants under subsection (a).

(2) The amount of any grant under subsection (a) shall be determined by the Secretary, except that the amount of—

(A) the first and second grant may not exceed 90 percent of the costs (as determined by the Secretary) of the project for which the grant is made;

(B) the third grant may not exceed 80 percent of such costs;

(C) the fourth grant may not exceed 70 percent of such costs;

(D) the fifth grant may not exceed 60 percent of such costs;

(E) the sixth grant may not exceed 50 percent of such costs;

(F) the seventh grant may not exceed 40 percent of such costs; and

(G) the eighth grant may not exceed 30 percent of such costs.

(3) If in a fiscal year the sum of—

(A) the total of State, local, and other funds, and of the fees, premiums, and third-party reimbursements collected in that year, and

(B) the amount of the grant received under subsection (a) by a center or entity,

exceeds its actual costs of operation for that year and if the center or entity is eligible to receive a grant under subsection (a) in the succeeding year, an adjustment in the amount of that grant shall be made in such a manner that the center or entity may retain such an amount (not to exceed 50 per centum of the amount by which such sum exceeded such costs) as the center or entity can demonstrate to the satisfaction of the Secretary will be used to enable the center or entity (i) to expand and improve its services, (ii) to increase the number of persons eligible to receive services from such a center or entity which it is able to serve, (iii) to modernize its facilities, (iv) to improve the administration of its service programs, and (v) to establish a financial reserve for the purpose of offsetting the decrease in the percentage of Federal participation in program operations in future years.

(d) For grants under subsection (a) there are authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1982, $17,500,000 for the fiscal year ending September 30, 1983, and $20,000,000 for the fiscal year ending September 30, 1984.

(e) For purposes of this section, the term "health care center" includes an outpatient facility operated in connection with a hospital, a primary care center, a community health center, a migrant health center, a clinic of the Indian Health Service, a skilled nursing home, an intermediate care facility, and an outpatient health care facility of a medical group practice, a public health department, or a health maintenance organization.

GRANTS AND CONTRACTS FOR INNOVATIVE PROJECTS

SEC. 207. (a) The Secretary may make grants to any public or nonprofit private entity for—

(1) projects for the training and retraining of employees adversely affected by changes in the delivery of mental health services and for providing such employees assistance in securing employment;

(2) projects for the innovative use of personnel in the management and delivery of mental health services; and

(3) any other innovative project of national significance respecting mental health services and mental health services personnel.

The Secretary may enter into contracts for the projects described in this subsection with any private entity which is engaged solely in the provision of mental health services.

(b)(1) The total number of grants and contracts which an entity may receive under subsection (a) may not exceed five.

(2) The amount of any grant under subsection (a) shall be determined by the Secretary.

(c) No contract may be entered into under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. The application shall be submitted in such form and manner and shall contain such information as the Secretary may prescribe.

(d) Of the total amount appropriated for any fiscal year under sections 201 through 206, 5 percent is available to the Secretary in such fiscal year for grants and contracts under subsection (a). Of the

funds obligated in any fiscal year by the Secretary for such grants and contracts, not less than 50 percent shall be obligated for approvable projects described in subsection (a)(1).

GRANTS FOR THE PREVENTION OF MENTAL ILLNESS AND THE PROMOTION OF MENTAL HEALTH

SEC. 208. (a) The Secretary may make grants to any public or nonprofit private entity for projects for the prevention of mental illness and the promotion of mental health or to demonstrate the effectiveness of intervention techniques and mental health promotion activities in the—

(1) maintenance and improvement of the mental health of individuals and groups of individuals particularly susceptible to mental illness,

(2) prevention of the onset of mental illness in such individuals and groups,

(3) prevention of the deterioration of the mental health of such individuals and groups,

(4) education of the general public regarding mental health problems and mental illness, the prevention of mental health problems and mental illness, and the promotion of mental health, and

(5) provision of screening, consultation, referral, and education in public school systems and in places of employment to detect and prevent early mental health problems and to promote mental health.

(b) Projects supported by grants under subsection (a) shall be consistent with national goals and priorities regarding the prevention of mental illness and promotion of mental health determined by the Director of the National Institute of Mental Health under section 455(d)(1) of the Public Health Service Act.

(c) An application for a grant under subsection (a) shall—

(1) define the techniques and mental health promotion activities to be funded by the grant;

(2) define the individuals or groups of individuals to be served by such techniques and activities; and

(3) provide for the evaluation of the effectiveness of such techniques and activities and describe the methodology to be used in making such evaluation.

(d) No entity may receive more than eight grants under subsection (a). The amount of a grant under subsection (a) shall be determined by the Secretary.

(e) For the purpose of grants under subsection (a) there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1982, $7,000,000 for the fiscal year ending September 30, 1983, and $8,000,000 for the fiscal year ending September 30, 1984.

PART A—STATE MENTAL HEALTH SERVICE PROGRAMS

STATE MENTAL HEALTH SERVICES PROGRAMS

SEC. 301. The State mental health authority of and any entity in a State is not eligible to receive a grant under title II or this title

for any fiscal year unless such State has in effect a State mental health services program which—

(1) has been prepared by the State mental health authority in consultation with the Statewide Health Coordinating Council of the State, and

(2) is consistent with the provisions relating to mental health services of the State health plan prepared in accordance with section 1524(c)(2) of the Public Health Service Act.

CONTENTS OF PROGRAMS

SEC. 302. A State mental health services program shall be submitted in such form and manner as the Secretary prescribes. The program shall consist of an administrative part and a services part as follows:

(1) The administrative part shall—

(A) provide that the State mental health authority will assume responsibility for administration of the program;

(B) provide for the designation of a State advisory council to consult with the State mental health authority in administering the program, which council shall include—

(i) representatives of nongovernmental organizations or groups, and of State agencies, concerned with the planning, operation, or use of facilities for the provision of mental health services, and

(ii) representatives of consumers and providers of such services who are familiar with the need for such services,

and the non-provider members of which shall constitute at least one-half of the membership of the council;

(C) provide that the State mental health authority will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and will keep such records and afford such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports;

(D) provide that any statistics or other data included in the program or on which the program is based will conform to such criteria, standards, and other requirements relating to their form, method of collection, content, or other aspects as the Secretary may prescribe;

(E) provide that the State mental health authority will from time to time, but not less often than annually, review the program and submit to the Secretary appropriate modifications thereof which it considers necessary;

(F) include provisions, meeting such requirements as the Office of Personnel Management may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis; and

(G) include a statement of the arrangements made pursuant to section 801.

(2) The services part shall—

(A) identify the mental health service areas within the State;

(B) identify the need in each mental health service area of the State for mental health and related support services after consideration of—

(i) the demographic, economic, cultural, and social characteristics of the population of the area, and

(ii) the special mental health services needs in the area of chronically mentally ill individuals, emotionally disturbed children and adolescents, elderly individuals, and other priority population groups;

(C) identify and evaluate the public and private mental health facilities, the mental health personnel, and the mental health services available in each mental health service area, and determine the additional facilities, personnel, and services necessary to meet the mental health needs of each area;

(D) identify the methods used (i) to determine the mental health needs of each mental health service area, and (ii) to evaluate the facilities, personnel, and services of each mental health service area;

(E) provide the information described in subparagraphs (B) through (D) for mental health services and related support service needs which relate to more than one mental health service area;

(F) list the mental health service needs of each mental health service area in the order of priority that such needs should be addressed through the use of existing Federal, State, and local resources;

(G) identify measures which need to be taken to alleviate geographic, cultural, linguistic, and economic barriers with respect to the delivery of mental health services in the mental health service areas;

(H) identify the legal rights of persons in the State who are mentally ill or otherwise mentally handicapped and describe any measure which needs to be taken to protect such rights;

(I) describe the actions which need to be taken by the State and entities in communities of the State to coordinate the provision of mental health and related support services in the State;

(J) describe, in specific terms, the actions the State mental health authority will take—

(i) to continue the provision of appropriate services which have been provided by local entities in the State with financial assistance under the Community Mental Health Centers Act and this Act and for which Federal financial assistance is no longer available;

(ii) to promote the development of comprehensive mental health services in each mental health service area where such services are currently unavailable;

(iii) to ensure substantially that, within a five-year period after the program is in effect in the State (or within such longer period as the Secretary, upon request of the State mental health authority, permits)—

(I) residents of public inpatient mental health facilities who have been inappropriately placed in

such facilities are discharged, and, to the extent appropriate, are placed in the least-restrictive settings and provided mental health and related support services appropriate to such persons' level of functioning;

(II) persons who need to be placed in inpatient mental health facilities are placed in the least-restrictive settings and provided mental health and related support services appropriate to such persons' level of functioning; and

(III) persons who are discharged from, or are in need of placement in, inpatient mental health facilities are informed of available community-based facilities and programs providing mental health and related support services, and provided access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services; and

(iv) to assist the courts and other public agencies, and appropriate private agencies, in screening persons being considered for inpatient care in mental health facilities in the State in order to determine if such care is medically or psychologically indicated;

(K) include a description of the services made available for mentally ill individuals in the State under titles IV, V, XVI, XVIII, XIX, and XX of the Social Security Act, the Education for All Handicapped Children Act of 1975, the Older Americans Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, the Drug Abuse Prevention, Treatment, and Rehabilitation Act, and other relevant Federal statutes;

(L) describe the steps being taken in the State to coordinate the provision of services under this Act with the provision of services under the Acts referred to in subparagraph (K); and

(M) contain or be accompanied by such additional information or assurances and meet such other requirements as the Secretary prescribes in order to achieve the purposes of this Act.

MENTAL HEALTH PROVISIONS OF STATE HEALTH PLANS

SEC. 303. Section 1523(a)(1)(B) of the Public Health Service Act is amended by inserting after "the statewide health needs of the State" the following: ", including the need for mental health services in the State,".

PART B—APPLICATIONS AND RELATED PROVISIONS

STATE ADMINISTRATION

SEC. 305. (a) The Secretary may enter into an agreement with any qualified State mental health authority of a State under which the authority will be the exclusive agent for the State and entities within the State for purposes of the financial assistance programs authorized by title II (other than the programs authorized by sections 207 and 208).

(b) For purposes of subsection (a), a qualified State mental health authority is an authority which meets the following requirements:

(1) A State mental health authority shall demonstrate to the satisfaction of the Secretary (A) that it is effectively implementing its State mental health services program prepared pursuant to section 301, and (B) that it, or another agency of the State, is making a good faith effort to establish and implement procedures for carrying out the requirements of paragraph (2).

(2)(A) For the purpose of eliminating the overconcentration of chronically mentally ill individuals in any community or group of communities in a State, the State mental health authority of the State shall monitor the discharge and diversion of such individuals into communities by inpatient mental health facilities.

(B) A State mental health authority shall administer a program of services for chronically mentally ill individuals in the State who have been discharged or diverted from inpatient mental health facilities. Such program shall include at least the following:

(i) The timely notification by the inpatient mental health facilities in the State to the appropriate community mental health centers or other entities of the discharge of and the location of the residence of each chronically mentally ill individual who has given an informed consent to such notification.

(ii) Before a chronically mentally ill individual is discharged from an inpatient mental health facility into a community, a prerelease consultation between the facility and the appropriate community mental health center or other entity respecting the individual if the individual has given an informed consent to such consultation. Such consultation shall take place without delaying the discharge of such individual from the mental health facility. Such consultation shall include a preliminary evaluation of the physical, mental, social, and monetary needs of the individual to be discharged, and an identification of the services and programs for which such individual is eligible.

(iii) Development by each inpatient mental health facility of a written treatment and services plan for each chronically mentally ill individual who is to be discharged or who is diverted by the facility and who has given an informed consent to the development of such plan. The plan shall be developed in consultation with a case manager in the community mental health center or other appropriate entity in

the mental health service area in which such individual will or does reside. Such plan shall—

(I) to the maximum extent feasible, be developed with the participation of the individual discharged or diverted and the family of such individual;

(II) include appropriate living arrangements suited to the needs of the individual, and, if the individual resides or is to reside in a residence in which there are at least three other chronically mentally ill individuals with whom the individual is not related by blood or marriage and which charges the individual for residing in the residence, assure that the residence meets the requirements prescribed under subparagraph (C) or meets the comparable requirements established under section 1616(e) of the Social Security Act.

(III) describe appropriate mental health services and other needed services, such as medical and dental services, rehabilitation services, vocational training and placement, social services, and living skills training; and

(IV) identify specific programs and services for which the individual is eligible, including income support.

There shall be a periodic reevaluation of the plan at least every one hundred and twenty days.

(iv) In the case of a chronically mentally ill individual for whom a plan has been developed under clause (iii), designation of a case manager to be responsible for the implementation of the plan and the coordination of services under the plan.

(v) The establishment and enforcement of minimum standards for the provision of followup care for the chronically mentally ill by community mental health centers and other appropriate entities.

Compliance with the informed consent requirements of the program shall be determined in accordance with the law of the State in which the program is in effect.

(C) A State mental health authority shall develop a program for regulating, in accordance with guidelines established by the Secretary, residences in which there are at least four chronically mentally ill individuals who are not related by blood or marriage, which charge such individuals for residing in the residence, and which do not meet the comparable requirements established under section 1616(e) of the Social Security Act. Such program shall include the following:

(i) Minimum standards for approval of a residence, including a standard which requires a mechanism to be available to the residents who are chroncially mentally ill to provide referral to and assistance in reaching appropriate medical, dental, mental health, and other services not available at a residence, compliance with appropriate life safety, fire, and sanitation codes, and access for visitation during reasonable hours without prior notice by appropriate mental health and social service staff.

(ii) Procedures for the evaluation, inspection, and monitoring of the compliance of the residence with the requirements of the program.

(iii) Remedies for noncompliance with such requirements.

(D) A State mental health authority shall provide educational or informational services to educate the population of the State regarding the problems of chronically mentally ill individuals, the need for community involvement in programs designed to resolve the problems of chronically mentally ill individuals outside institutional settings, and the resources available or needed to help such programs succeed.

(E) A State mental health authority shall improve the skills of personnel involved in providing services for chronically mentally ill individuals through inservice training, retraining, or other training of such personnel.

(F) A State mental health authority shall provide satisfactory assurances to the Secretary that it will submit a biennial report to the Secretary regarding its efforts and progress under this paragraph, including the manner in which the needs of chronically mentally ill individuals in each mental health service area in the State are being met within the community and the State's progress in implementing mechanisms to ensure that, as chronically mentally ill individuals are discharged from mental health facilities, increased State mental health funds are available for community-based care.

(c) No agreement may be entered into under subsection (a) with a State mental health authority unless the authority has submitted an application to the Secretary in such form and manner as the Secretary shall prescribe. The Secretary shall publish a notice in the Federal Register identifying the States which have made an application for an agreement under subsection (a) and, in considering an application, the Secretary shall provide a reasonable opportunity for submission of comments on the application.

(d) The Secretary may make grants to States which have entered into agreements under subsection (a) for purposes of assisting the States in meeting the costs of carrying out the agreements. For grants authorized by this subsection there are authorized to be appropriated $3,000,000 for the fiscal year ending September 30, 1982, $4,000,000 for the fiscal year ending September 30, 1983, and $5,000,000 for the fiscal year ending September 30, 1984.

PROCESSING OF APPLICATIONS BY STATE MENTAL HEALTH AUTHORITIES

SEC. 306. (a) Each applicant for a grant under title II (other than an applicant for a grant under section 207 or 208) shall submit its application to the State mental health authority for its State in accordance with such requirements as the authority may prescribe.

(b)(1) If a State mental health authority has entered into an agreement under section 305, the authority shall carry out the following:

(A) The authority shall consider the applications submitted to it in accordance with subsection (a), and, in the course of such consideration, shall provide the applicants and other interested persons with a reasonable opportunity for a hearing before the

authority on the applications. The authority shall also provide a reasonable opportunity for a hearing on applications the authority proposes to submit for itself to the Secretary.

(B) The authority may modify any application submitted to it and may return an application to an applicant.

(C) The authority shall (i) rank all the applications which the authority proposes to transmit to the Secretary in the order in which the authority determines the applications should be funded when approved by the Secretary, and (ii) in accordance with the agreement entered into under section 305, transmit such applications to the Secretary.

If the State mental health authority modifies or returns an application, the State mental health authority shall provide the applicant involved with a statement of the reasons for the modification or return.

(2) If a State mental health authority has not entered into an agreement under section 305, the authority shall carry out the following:

(A) The authority shall consider the applications submitted to it in accordance with subsection (a), and, in the course of such consideration, shall provide the applicants and other interested persons with a reasonable opportunity for a hearing before the authority on the applications. The authority shall also provide a reasonable opportunity for a hearing on applications the authority proposes to submit for itself to the Secretary.

(B) For each category of grants under title II for which an application was submitted to or proposed by the authority, the authority shall (i) rank all the applications for such category of grants in the order in which the authority determines the applications should be funded when approved by the Secretary, and (ii) in accordance with regulations issued by the Secretary, transmit such applications to the Secretary.

(c)(1) An applicant may appeal to the Secretary a decision of a State mental health authority under subsection (b)(1) to return to the applicant its application or to modify its application. In reviewing the decision of the authority, the Secretary shall provide the authority and the applicant involved a reasonable opportunity for a hearing on the appeal of the decision of the authority. If the Secretary finds that the decision of the authority was arbitrary or capricious, the Secretary—

(A) shall, if the decision of the authority was to return the application, return the application to the authority for ranking, and

(B) shall, if the decision of the authority was to modify the application, provide the authority an opportunity to change its rank of the application, and the Secretary may consider the application without regard to the modifications.

(2) An applicant may appeal to the Secretary a decision of a State mental health authority under subsection (b)(2) ranking the application. In reviewing the decision of the authority, the Secretary shall provide the authority and the applicant involved a reasonable opportunity for a hearing on the appeal of the decision of the authority. If the Secretary finds that, on the basis of the record established in the hearing provided under the preceding sentence, there is substantial evidence that the activity proposed in the application in-

volved would better carry out the purposes of the section under which it would be funded than other applications under that section given a higher rank, the Secretary may consider the application without regard to the rank given the application by the State mental health authority.

(3) A decision of the Secretary under paragraph (1) or (2) is not subject to judicial review.

(d) If a State mental health authority fails to carry out, in accordance with an agreement entered into under section 305 or with regulations issued by the Secretary, its responsibilities under subsection (b) with respect to applications submitted to it, the applicants under such applications shall be provided an opportunity to submit their applications directly to the Secretary.

APPLICATIONS

SEC. 307. (a) No grant may be made under this title or title II unless an application therefor is submitted to and approved by the Secretary. The application shall be in such form, submitted in such manner, and contain such information, as the Secretary may require.

(b) An application for a grant under section 201, 202, 203, or 204 must, in addition to the application requirements prescribed in the section under which the grant is to be made, contain or be accompanied by—

(1) a financial plan and budget covering the year for which the grant is sought (and such additional period as the Secretary may require) showing the sources of funding for the project and allocating the funds available for the project among the various types of services to be provided or assisted or the various types of activities to be conducted or assisted and among the various population groups to which the project is directed;

(2) a statement of the objectives of the project;

(3) with respect to health services which are to be provided, assurances satisfactory to the Secretary that—

(A) the applicant (i) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments which discounts are adjusted on the basis of the patient's ability to pay; (ii) has made and will continue to make every reasonable effort (I) to secure from patients payment for services in accordance with such approved schedules, and (II) to collect reimbursement for health services to persons described in subparagraph (B) on the basis of the full amount of fees and payments for such services without application of any discount, and (iii) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph; and

(B) the applicant has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance

for medical expenses under any other public assistance program or private health insurance program; and

(C) the applicant will adopt and enforce a policy (i) under which fees for the provision of mental health services through the applicant will be paid to the applicant, and (ii) which prohibits health professionals who provide such services to patients through the applicant from providing such services to such patients except through the applicant.

(4) in the case of a project which will serve a population which includes a substantial proportion of individuals of limited English-speaking ability, assurances satisfactory to the Secretary that the applicant has (A) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals, and (B) identified an individual on its staff who is fluent in both that language and English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivity and bridging linguistic and cultural differences;

(5) assurances that the applicant has in effect a system, satisfactory to the Secretary, to assure that an employee of the applicant who reports to any officer or employee of the Department of Health and Human Services or appropriate State authority any failure on the part of the applicant to comply with an applicable requirement of this Act or regulation of the Secretary or requirement of State law will not on account of such report be discharged or discriminated against with respect to the employee's compensation or the terms, conditions, or privileges of the employee's employment;

(6) satisfactory assurances that each facility to be used in the provision of mental health or support services to be supported by the grant applied for meets the requirements of applicable fire and safety codes imposed by State law;

(7) information on the organization and operation of the applicant;

(8) satisfactory assurances that the applicant will submit such reports, at such times and containing such information, as the Secretary may request and maintain such records as the Secretary may find necessary for purposes of this Act, and afford the Secretary and the Comptroller General of the United States such access to such records and other documents as may be necessary for an effective audit of the project;

(9) satisfactory assurances that funds made available under this Act will be used to supplement and, to the extent practical, increase the level of non-Federal funds that would, in the absence of those Federal funds, be made available for the purpose for which the funds under this Act are made available, and will in no event supplant such non-Federal funds;

(10) satisfactory assurances that measures have been taken by the applicant to consult with members of the group or groups to be served, members of the public, and affected organizations and agencies during the development of the application, and to give reasonable opportunities to members of such groups, mem-

bers of the public, and interested organizations and agencies to comment on the application;

(11) assurances that the applicant has made satisfactory efforts to coordinate the services to be provided with other mental health and support services in the same area;

(12) in the case of a grant under section 201 or 202, information regarding the extent to which and manner in which the applicant has served chronically mentally ill individuals in prior years (if such service has been provided) and proposes to serve chronically mentally ill individuals during the fiscal year for which the grant is sought;

(13) statistics and other information requested by the Secretary necessary to evaluate the compliance of the application with the requirements of this section;

(14) satisfactory assurance that the project is consistent with the State mental health services program; and

(15) such other information and material and such other assurances as the Secretary may prescribe.

(c) If an entity has received a grant under section 201, 202, 203, 204, or 206, the entity is not eligible to apply for a grant under another of such sections unless it continues to provide the service it provided under the grant it received or the Secretary determines that the service is not needed.

(d) If a grant is made for any fiscal year under section 202, 203, or 204(a) for a project in a mental health service area, no more than one grant may be made for such fiscal year for a project in such mental health service area under any one of the other such sections.

INDIAN TRIBES AND ORGANIZATIONS

SEC. 308. (a) Except as provided in this section, the requirements of this title and title II shall apply with respect to any application of an Indian tribe, intertribal organization, or urban Indian organization made for a grant under title II.

(b)(1) Any Indian tribe or intertribal organization may apply directly to the Secretary for a grant under title II for the provision of mental health services if such services will be available within or will specifically serve—

(A) a federally recognized Indian reservation,

(B) any land area in Oklahoma that is held in trust by the United States for Indians or that is a restricted Indian-owned land area,

(C) a native village in Alaska (as defined in section 3(c) of the Alaska Native Claims Settlement Act), or

(D) an Indian community the members of which are recognized as eligible for services under the Indian Health Care Improvement Act.

(2) An application of an Indian tribe or intertribal organization authorized by paragraph (1)—

(A) shall also be submitted by the applicant to the Indian Health Service and may not be approved by the Secretary unless the Indian Health Service certifies that the application is consistent with the Tribal Specific Health Plan of the tribe or tribes to be served by the grant,

(B) shall not be subject to consideration by a State mental health authority,

(C) may be made without regard to the State mental health services program in effect in the State in which the tribe or organization is located, and

(D) may be considered, approved, and funded by the Secretary without regard to the mental health service area or areas in which the services under the grant will be provided.

(c) If the application of any Indian tribe, intertribal organization, or urban Indian organization for a grant under title II requests that the Indian Health Service or any entity of the Service provide the mental health services under the grant to members of such tribe or organization—

(1) the application shall not be subject to consideration by a State mental health authority, and

(2) if the application is approved, payments under the grant shall be made to the Indian Health Service or entity of the Service as requested in the application.

(d) For purposes of this section—

(1) the term "Indian tribe" has the same meaning as is given that term by the Indian Self-Determination Act, and

(2) the term "urban Indian organization" has the same meaning as is given that term by the Indian Health Care Improvement Act.

PROCEDURES

SEC. 309. In considering any application for a grant or contract under this title or title II, the Secretary shall provide a reasonable opportunity for the submission of comments on the application. If the Secretary does not approve an application, the Secretary shall provide the applicant and the State mental health authority of the State in which the applicant is located to the Secretary with a statement of the reasons of the Secretary for not approving the application.

PART C—PERFORMANCE

PERFORMANCE CONTRACTS

SEC. 315. No payment may be made under any grant or contract made or entered into under title II or this title unless the Secretary has entered into a contract with the entity to which the grant has been made or with which the contract has been entered into specifying the following with respect to the performance of the activities for which the grant or contract was made or entered into:

(1) A schedule for the performance of such activities.

(2) The standards by which the performance of such activities by the entity will be monitored and evaluated, the incentives which will be provided the entity to meet such standards, and the role of the Secretary and of consumers and representatives of communities affected by such activities in such monitoring and evaluation.

(3) The methods and format which will be used in collecting and transmitting data to the Secretary respecting the performance of such activities.

(4) An expeditious and impartial method for the resolution of disputes between the entity and the Secretary respecting the performance of such activities.

(5) Such other matters which the Secretary includes in the contract to carry out the purposes of the section under which the grant or contract was made or entered into.

PERFORMANCE STANDARDS

SEC. 316. (a) The Secretary shall prescribe standard measures of performance designed to test the quality and extent of performance by the recipients of grants and contracts under title II and this title and the extent to which such performance has helped to achieve the national or other objectives for which the grants or contracts were made or entered into.

(b) In determining whether or not to approve an application for a grant or contract under title II or this title, the Secretary shall consider the performance by the applicant under any prior grant or contract under title II or this title as measured under subsection (a).

EVALUATION AND MONITORING

SEC. 317. (a) With the approval of the Secretary, any recipient of a grant or contract under title II or this title may use a portion of that grant or contract for evaluation of the project or activity involved.

(b) Not more than 1 per centum of the total amount appropriated under title II and this title for any fiscal year shall be used by the Secretary, or through contracts with State mental health authorities or other entities, to monitor activities of the recipients of grants and contracts under title II or this title to determine if the requirements of this Act applicable to the receipt of such grants or contracts. are being met.

PART D—ENFORCEMENT

ENFORCEMENT

SEC. 321. (a) If the Secretary determines that there has been a substantial and persistent failure—

(1) by a State mental health authority to implement its State mental health services program in accordance with the requirements of part A of this title, the Secretary may issue a proposed order to stop payments under title II and this title to any entity in the State, including the State mental health authority, until the Secretary is satisfied that such failure has been or will be corrected, or

(2) by any entity in a State which is receiving funds under a grant or contract under title II or this title to comply with the requirements of this title (other than the requirements of part A), the Secretary may issue a proposed order to stop payments under such grant or contract until the Secretary is satisfied that such failure has been or will be corrected.

The Secretary shall notify each entity affected by an order issued under this subsection of the effect of the order.

(b) If the Secretary issues an order under subsection (a), the Secretary shall provide a reasonable opportunity for an informal hearing for the entities affected by the order. Such a hearing shall be held in the State in which such entities are located. If after such a hearing the Secretary reaffirms the determination on which the order was based, the Secretary may discontinue payments as specified in the proposed order or as revised by the Secretary after the hearing.

Part E—Miscellaneous

NATIONAL INSTITUTE OF MENTAL HEALTH PREVENTION UNIT

Sec. 325. Section 455 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(d) The Director shall designate an administrative unit in the Institute to—

"(1) design national goals and establish national priorities for—

"(A) the prevention of mental illness, and

"(B) the promotion of mental health,

"(2) encourage and assist local entities and State agencies to achieve the goals and priorities described in paragraph (1), and

"(3) develop and coordinate Federal prevention policies and programs and to assure increased focus on the prevention of mental illness and the promotion of mental health.".

TECHNICAL ASSISTANCE

Sec. 326. Such portion as the Secretary may determine, but not more than 2 percent, of the total amount appropriated under title II for any fiscal year is available to the Secretary to provide technical assistance, including short-term training to any State mental health authority or other entity which is or has been a recipient of a grant under title II or this title to assist it in developing, or in better administering, the mental health services program or programs for which it is responsible.

INDIRECT PROVISION OF SERVICES

Sec. 327. Except as provided in section 101(b)(2), any mental health service which an entity is responsible for providing in a mental health service area under a grant or contract under title II may be provided by it directly at its primary or satellite facilities or through arrangements with other entities or health professionals and others in, or serving residents of, the same mental health service area.

COOPERATIVE AGREEMENTS

Sec. 328. In lieu of providing funds under a grant under title II or this title, the Secretary may provide such funds under a cooperative agreement, and all requirements which would apply with respect to such a grant shall apply to the cooperative agreement.

CONTRACT AUTHORITY

SEC. 329. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

TITLE IV—ASSOCIATE DIRECTOR FOR MINORITY CONCERNS

ASSOCIATE DIRECTOR FOR MINORITY CONCERNS

SEC. 401. (a) Section 455 of the Public Health Service Act (as amended by section 325 of this Act) is amended by adding at the end thereof the following new subsection:

"(e)(1) The Director of the National Institute of Mental Health shall designate an Associate Director for Minority Concerns.

"(2) The Secretary, acting through the Associate Director for Minority Concerns, shall—

"(A) develop and coordinate prevention, treatment, research, and administrative policies and programs to assure increased emphasis on the mental health needs of minority populations.

"(B) support programs and projects relating to the delivery of mental health services to minority populations, including demonstration programs and projects;

"(C) develop a plan to increase the representation of minority populations in mental health service delivery and manpower programs;

"(D) support programs of basic and applied social and behavioral research on the mental health problems of minority populations;

"(E) study the effects of discrimination on institutions and individuals, including majority institutions and individuals;

"(F) develop systems to assist minority populations in adapting to, and coping with, the effects of discrimination;

"(G) support and develop research, demonstration, and training programs designed to eliminate institutional discrimination; and

"(H) provide increased emphasis on the concerns of minority populations in training programs, service delivery programs, and research endeavors of the Institute.".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act or October 1, 1981, whichever occurs later.

TITLE V—MENTAL HEALTH RIGHTS AND ADVOCACY

BILL OF RIGHTS

SEC. 501. It is the sense of the Congress that each State should review and revise, if necessary, its laws to ensure that mental health patients receive the protection and services they require; and in making such review and revision should take into account the recommendations of the President's Commission on Mental Health and the following:

(1) A person admitted to a program or facility for the purpose of receiving mental health services should be accorded the following:

(A) The right to appropriate treatment and related services in a setting and under conditions that—

(i) are the most supportive of such person's personal liberty; and

(ii) restrict such liberty only to the extent necessary consistent with such person's treatment needs, applicable requirements of law, and applicable judicial orders.

(B) The right to an individualized, written, treatment or service plan (such plan to be developed promptly after admission of such person), the right to treatment based on such plan, the right to periodic review and reassessment of treatment and related service needs, and the right to appropriate revision of such plan, including any revision necessary to provide a description of mental health services that may be needed after such person is discharged from such program or facility.

(C) The right to ongoing participation, in a manner appropriate to such person's capabilities, in the planning of mental health services to be provided such person (including the right to participate in the development and periodic revision of the plan described in subparagraph (B)), and, in connection with such participation, the right to be provided with a reasonable explanation, in terms and language appropriate to such person's condition and ability to understand, of—

(i) such person's general mental condition and, if such program or facility has provided a physical examination, such person's general physical condition;

(ii) the objectives of treatment;

(iii) the nature and significant possible adverse effects of recommended treatments;

(iv) the reasons why a particular treatment is considered appropriate;

(v) the reasons why access to certain visitors may not be appropriate; and

(vi) any appropriate and available alternative treatments, services, and types of providers of mental health services.

(D) The right not to receive a mode or course of treatment, established pursuant to the treatment plan, in the absence of such person's informed, voluntary, written consent to such mode or course of treatment, except treatment—

(i) during an emergency situation if such treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(ii) as permitted under applicable law in the case of a person committed by a court to a treatment program or facility.

(E) The right not to participate in experimentation in the absence of such person's informed, voluntary, written con-

sent, the right to appropriate protections in connection with such participation, including the right to a reasonable explanation of the procedure to be followed, the benefits to be expected, the relative advantages of alternative treatments, and the potential discomforts and risks, and the right and opportunity to revoke such consent.

(F) The right to freedom from restraint or seclusion, other than as a mode or course of treatment or restraint or seclusion during an emergency situation if such restraint or seclusion is pursuant to or documented contemporaneously by the written order of a responsible mental health professional.

(G) The right to a humane treatment environment that affords reasonable protection from harm and appropriate privacy to such person with regard to personal needs.

(H) The right to confidentiality of such person's records.

(I) The right to access, upon request, to such person's mental health care records, except such person may be refused access to—

(i) information in such records provided by a third party under assurance that such information shall remain confidential; and

(ii) specific material in such records if the health professional responsible for the mental health services concerned has made a determination in writing that such access would be detrimental to such person's health, except that such material may be made available to a similarly licensed health professional selected by such person and such health professional may, in the exercise of professional judgment, provide such person with access to any or all parts of such material or otherwise disclose the information contained in such material to such person.

(J) The right, in the case of a person admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reasonable access to the telephone and mails, and to see visitors during regularly scheduled hours, except that, if a mental health professional treating such person determines that denial of access to a particular visitor is necessary for treatment purposes, such mental health professional may, for a specific, limited, and reasonable period of time, deny such access if such mental health professional has ordered such denial in writing and such order has been incorporated in the treatment plan for such person. An order denying such access should include the reasons for such denial.

(K) The right to be informed promptly at the time of admission and periodically thereafter, in language and terms appropriate to such person's condition and ability to understand, of the rights described in this section.

(L) The right to assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely, and impartial grievance procedure provided for or by the program or facility.

(M) Notwithstanding subparagraph (J), the right of access to (including the opportunities and facilities for private communication with) any available—

(i) rights protection service within the program or facility;

(ii) rights protection service within the State mental health system designed to be available to such person; and

(iii) qualified advocate;

for the purpose of receiving assistance to understand, exercise, and protect the rights described in this section and in other provisions of law.

(N) The right to exercise the rights described in this section without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

(O) The right to referral as appropriate to other providers of mental health services upon discharge.

(2)(A) The rights described in this section should be in addition to and not in derogation of any other statutory or constitutional rights.

(B) The rights to confidentiality of and access to records as provided in subparagraphs (H) and (I) of paragraph (1) should remain applicable to records pertaining to a person after such person's discharge from a program or facility.

(3)(A) No otherwise eligible person should be denied admission to a program or facility for mental health services as a reprisal for the exercise of the rights described in this section.

(B) Nothing in this section should—

(i) obligate an individual mental health or health professional to administer treatment contrary to such professional's clinical judgment;

(ii) prevent any program or facility from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgment of the mental health professional primarily responsible for such person's treatment, is or has become impossible as a result of such person's refusal to consent to such treatment;

(iii) require a program or facility to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of such admissions by withholding consent to proposed treatment; or

(iv) obligate a program or facility to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

(C) In order to assist a person admitted to a program or facility in the exercise or protection of such person's rights, such person's attorney or legal representatives should have reasonable access to—

(i) such person;

(ii) the areas of the program or facility where such person has received treatment, resided, or had access; and

(iii) pursuant to the written authorization of such person, the records and information pertaining to such person's diagnosis, treatment, and related services described in paragraph (1)(I).

(D) Each program and facility should post a notice listing and describing, in language and terms appropriate to the ability of the persons to whom such notice is addressed to understand, the rights de-

scribed in this section of all persons admitted to such program or facility. Each such notice should conform to the format and content for such notices, and should be posted in all appropriate locations.

(4)(A) In the case of a person adjudicated by a court of competent jurisdiction as being incompetent to exercise the right to consent to treatment or experimentation described in subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), such right may be exercised or such authorization may be provided by the individual appointed by such court as such person's guardian or representative for the purpose of exercising such right or such authorization.

(B) In the case of a person who lacks capacity to exercise the right to consent to treatment or experimentation under subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), because such person has not attained an age considered sufficiently advanced under State law to permit the exercise of such right or such authorization to be legally binding, such right may be exercised or such authorization may be provided on behalf of such person by a parent or legal guardian of such person.

(C) Notwithstanding subparagraphs (A) and (B), in the case of a person admitted to a program or facility for the purpose of receiving mental health services, no individual employed by or receiving any remuneration from such program or facility should act as such person's guardian or representative.

GRANTS FOR PROTECTION AND ADVOCACY PROGRAMS

SEC. 502. (a)(1) The Secretary may make grants to any public or nonprofit private entity for projects to protect and advocate the rights of mentally ill individuals if the entity—

(A) has the authority and ability to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of mentally ill individuals, and

(B) is independent of any entity which provides treatment or services to mentally ill individuals.

(2) A grant under paragraph (1) for the first fiscal year for which funds are appropriated under subsection (d) may be made only to an entity of the government of a State designated by the Governor of the State or a public or nonprofit private entity in a State recommended by the Governor of the State. A grant under paragraph (1) for a succeeding fiscal year may be made to any public or nonprofit private entity, except that in considering an application of an entity which is not an entity of State government designated by the Governor or which has not been recommended by the Governor of a State, the Secretary shall notify the Governor of the State in which such entity is located of the application and shall provide the Governor and other interested persons a reasonable opportunity for a hearing on the application.

(b) The Secretary may make grants to any public or nonprofit private entity for the provision of training and technical assistance for

entities carrying out projects to protect and advocate the rights of mentally ill individuals.

(c) No grant may be made under subsection (a) or (b) unless an application therefor is submitted to and approved by the Secretary. The application shall be submitted in such form and manner, and shall contain such information, as the Secretary may prescribe.

(d) For grants under subsections (a) and (b), there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1982, $12,500,000 for the fiscal year ending September 30, 1983, and $15,000,000 for the fiscal year ending September 30, 1984. Not more than 10 percent and not less than 5 percent of the amount appropriated under this subsection for any fiscal year shall be obligated for grants under subsection (b).

TITLE VI—RAPE PREVENTION AND CONTROL

RAPE PREVENTION AND CONTROL

SEC. 601. (a) The Secretary, acting through the National Center for the Prevention and Control of Rape (hereafter in this section referred to as the "Center"), may, directly or by grant, carry out the following:

(1) A continuing study of rape, including a study and investigation of—

(A) the effectiveness of existing Federal, State, and local laws dealing with rape;

(B) the relationship, if any, between traditional legal and social attitudes toward sexual roles, the act of rape, and the formulation of laws dealing with rape;

(C) the treatment of the victims of rape by law enforcement agencies, hospitals or other medical institutions, prosecutors, and the courts;

(D) the causes of rape, identifying to the degree possible—

(i) social conditions which encourage sexual attacks, and

(ii) the motives of offenders, and

(E) the impact of rape on the victim and family of the victim;

(F) sexual assaults in correctional institutions;

(G) the estimated actual incidence of forcible rape as compared to the reported incidence of forcible rape and the reasons for any difference between the two; and

(H) the effectiveness of existing private and local and State government educational, counseling, and other programs designed to prevent and control rape.

(2) The compilation, analysis, and publication of summaries of the continuing study conducted under paragraph (1) and the research and demonstration projects conducted under paragraph (5). The Secretary shall submit not later than March 30, 1983, to the Congress a summary of such study and projects together with a review of their effectiveness and recommendations where appropriate.

(3) The development and maintenance of an information clearinghouse with regard to—

(A) the prevention and control of rape;

(B) the treatment and counseling of the victims of rape and their families; and

(C) the rehabilitation of offenders.

(4) The compilation and publication of training materials for personnel who are engaged or intend to engage in programs designed to prevent and control rape.

(5) Assistance to community mental health centers and other qualified public and nonprofit private entities in conducting research and demonstration projects concerning the prevention and control of rape, including projects (A) for the planning, development, implementation, and evaluation of alternative methods used in the prevention and control of rape, the treatment and counseling of the victims of rape and their families, and the rehabilitation of offenders; (B) for the application of such alternative methods; and (C) for the promotion of community awareness of the specific locations in which, and the specific social and other conditions under which sexual attacks are most likely to occur.

(6) Assistance to community mental health centers in meeting the costs of providing consultation and education services respecting rape.

(b) The Secretary shall appoint an advisory committee to advise, consult with, and make recommendations to the Secretary on the implementation of subsection (a). The recommendations of the committee shall be submitted directly to the Secretary without review or revision by any person without the consent of the committee. The Secretary shall appoint to such committee persons who are particularly qualified to assist in carrying out the functions of the committee. A majority of the members of the committee shall be women. Members of the advisory committee shall receive compensation at rates, not to exceed the daily equivalent of the annual rate in effect for grade GS–18 of the General Schedule, for each day (including traveltime) they are engaged in the performance of their duties as members of the advisory committee and, while so serving away from their homes or regular places of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

(c) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. The application shall be submitted in such form and manner and contain such information as the Secretary may prescribe.

(d) For the purpose of carrying out subsection (a), there are authorized to be appropriated $6,000,000 for the fiscal year ending September 30, 1981, $1,500,000 for the fiscal year ending September 30, 1982, $1,500,000 for the fiscal year ending September 30, 1983.

(e) For purposes of subsection (a), the term "rape" includes statutory and attempted rape and any other criminal sexual assault (whether homosexual or heterosexual) which involves force or the threat of force.

(f) Part D of the Community Mental Health Centers Act is repealed.

GRANTS FOR SERVICES FOR RAPE VICTIMS

SEC. 602. (a) The Secretary may make grants to any public or nonprofit private entity to assist in meeting the cost of—

(1) providing counseling and followup counseling for rape victims and the immediate family of rape victims;

(2) providing assistance in securing mental health, social, medical, and legal services for rape victims;

(3) demonstration projects to develop and implement methods of preventing rape and assisting rape victims.

(b)(1) No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. The application shall be submitted in such form and manner and contain such assurances as the Secretary may require that the applicant will comply with the requirements of subsection (e) and such other information as the Secretary may prescribe.

(2) The amount of any grant under this section shall be determined by the Secretary, except that the amount may not exceed 90 per centum of the cost of the project (as determined by the Secretary) with respect to which the grant is made.

(c)(1) In carrying out this section, the Secretary shall coordinate with other activities related to rape carried out by the Secretary and the heads of other Federal departments and agencies.

(2) The Secretary shall establish a grant review panel to make recommendations to the Secretary with respect to the approval of applications for grants under subsection (a). The Secretary shall appoint individuals to the panel who are or have been engaged in the provision of services to rape victims.

(d)(1) There are authorized to be appropriated for grants under subsection (a) $6,000,000 for the fiscal year ending September 30, 1981, $9,000,000 for the fiscal year ending September 30, 1982, $12,000,000 for the fiscal year ending September 30, 1983, and $12,000,000 for the fiscal year ending September 30, 1984.

(2) The Secretary may in a fiscal year obligate not more than 7.5 percent of the funds appropriated for that fiscal year under paragraph (1) to provide, upon request, technical assistance in the development and submission of applications for a grant under subsection (a). Such assistance shall be provided only to those entities which the Secretary determines do not possess the resources or expertise necessary to develop and submit such an application.

(e) No officer or employee of the Federal Government or of any recipient of a grant under subsection (a) may use or disclose any personally identifiable information obtained, in carrying out an activity assisted by such grant, by the recipient (or an officer or employee of the recipient) from a rape victim or a rape victim's immediate family unless such use or disclosure is necessary to carry out the activity or is made with the consent of the person who supplied the information. Such information shall be immune from legal process and may not, without the consent of the person furnishing the information, be admitted as evidence or otherwise used in any civil or criminal action or other judicial or administrative proceeding.

TITLE VII—EXTENSION OF COMMUNITY MENTAL HEALTH CENTERS ACT

ONE-YEAR EXTENSION OF COMMUNITY MENTAL HEALTH CENTERS ACT

SEC. 701. (a) Subsection (d) of section 202 of the Community Mental Health Centers Act (42 U.S.C. 2689a(d)) (relating to grants for planning) is amended by striking out "for the fiscal year ending September 30, 1980" and inserting in lieu thereof "each for the fiscal year ending September 30, 1980, and the next fiscal year".

(b) Subsection (d) of section 203 of such Act (relating to grants for initial operation) is amended—

(1) in paragraph (1), by (A) striking out "and" after "1979,", and (B) inserting before the period a comma and the following: "and $37,000,000 for the fiscal year ending September 30, 1981"; and

(2) effective October 1, 1981, by striking out "(1)" and paragraph (2).

(c) Subsection (c) of section 204 of such Act (42 U.S.C. 2689c(c)) (relating to grants for consultation and education services) is amended (1) by striking out "and" after "1979,", and (2) by inserting before the period a comma and the following: "and $15,000,000 for the fiscal year ending September 30, 1981".

(d)(1) Section 213 of such Act (42 U.S.C. 2689h) (relating to financial distress grants) is amended (1) by striking out "and" after "1978,", and (B) by inserting after "1979," the following: "and $20,000,000 for the fiscal year ending September 30, 1981,".

(2) Section 212(c) of such Act (42 U.S.C. 2689g(c)) of such Act is amended by striking out "five" and inserting in lieu thereof "six".

(e) Section 206(e)(2)(B) of such Act (42 U.S.C. 2689e(e)(2)(B)) is amended by striking out "the fiscal year ending September 30, 1979, and during the fiscal year ending September 30, 1980" and inserting in lieu thereof "the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981".

TITLE VIII—MISCELLANEOUS

EMPLOYEE PROTECTION

SEC. 801. (a)(1) Each State mental health authority shall have in effect equitable arrangements to protect the interests of employees affected adversely by actions taken by the State mental health authority to emphasize outpatient mental health services. Such arrangements shall include arrangements designed to preserve employee rights and benefits and to provide training and retraining of employees, where necessary, for work in mental health or other fields and arrangements under which maximum effort will be made to place employees in employment. The arrangements required by this paragraph shall be established by a State mental health authority in accordance with regulations issued by the Secretary with the concurrence of the Secretary of Labor.

(2) The Secretary shall issue the regulations referred to in paragraph (1) not later than six months after the date of the enactment of this Act.

(b) Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State mental health authority involved, finds (after consultation with the Secretary of Labor) that there is a failure to comply substantially with the requirements of subsection (a), the Secretary may, until the Secretary is satisfied that there will no longer be any such failure, discontinue payments to the State mental health authority under sections 107 and 305.

(c) Not later than March 1, 1983, and March 1, 1984, the Secretary of Health and Human Services shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives a report on actions taken under subsection (a). The report shall include the comments of the Secretary of Labor on such actions and shall include—

(1) a statement of the number, by State, of public inpatient mental health facilities which have been closed or partially closed since the date of the enactment of this Act,

(2) a statement of the number, by State, of public employees who were adversely affected by such closings,

(3) a summary, by State, of the arrangements made under subsection (a) for such employees and the cost of carrying out such arrangements,

(4) a description of agency procedures, resources, and personnel used to implement subsections (a) and (b), and

(5) a description of the training and retraining projects funded under section 207.

REPORT ON SHELTER AND BASIC LIVING NEEDS OF CHRONICALLY MENTALLY ILL INDIVIDUALS

SEC. 802. (a) The Secretary of Health and Human Services and the Secretary of Housing and Urban Development shall jointly submit a report to the Committees on Labor and Human Resources and Banking, Housing, and Urban Affairs of the Senate, and the Committees on Interstate and Foreign Commerce and Banking, Finance, and Urban Affairs of the House of Representatives, relating to Federal efforts to respond to the shelter and basic living needs of chronically mentally ill individuals.

(b) The report required by subsection (a) shall include—

(1) an analysis of the extent to which chronically mentally ill individuals remain inappropriately housed in institutional facilities or have otherwise inadequate or inappropriate housing arrangements;

(2) an analysis of available permanent noninstitutional housing arrangements for the chronically mentally ill;

(3) an evaluation of ongoing permanent and demonstration programs, funded in whole or in part by Federal funds, which are designed to provide noninstitutional shelter and basic living services for the chronically mentally ill, including—

(A) a description of each program;

(B) the total number of individuals estimated to be eligible to participate in each program, the number of individuals served by each program, and an estimate of the total population each program expects to serve; and

(C) an assessment of the effectiveness of each program in the provision of shelter and basic living services;

(4) recommendations of measures to encourage States to coordinate and link the provisions in State health plans which relate to mental health and, in particular, the shelter and basic living needs of chronically mentally ill individuals, with local and State housing plans;

(5) recommendations for Federal legislation relating to the provision of permanent residential noninstitutional housing arrangements and basic living services for chronically mentally ill individuals, including an estimate of the cost of such recommendations; and

(6) any other recommendations for Federal initiatives which, in the judgment of the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, will lead to improved shelter and basic living services for chronically mentally ill individuals.

(c) The report required by subsection (a) shall be submitted to the committees referred to in subsection (a) no later than January 1, 1981.

OBLIGATED SERVICE FOR MENTAL HEALTH TRAINEESHIPS

SEC. 803. (a) Section 303 of the Public Health Service Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Any individual who has received a clinical traineeship, in psychology, psychiatry, nursing, or social work, under subsection (a)(1) that was not of a limited duration or experimental nature (as determined by the Secretary) is obligated to serve, in service determined by the Secretary to be appropriate in the light of the individual's training and experience, at the rate of one year for each year (or academic year, whichever the Secretary determines to be appropriate) of the traineeship.

"(2) The service required under paragraph (1) shall be performed—

"(A) for a public inpatient mental institution providing inpatient care or any entity receiving a grant under the Mental Health Systems Act,

"(B) in a health manpower shortage area (as determined under subpart II of part D of this title), or

"(C) in any other area or for any other entity designated by the Secretary,

and shall begin within such period after the termination of the traineeship as the Secretary may determine. In developing criteria for determining for which institutions or entities or in which areas, referred to in the preceding sentence, individuals must perform service under paragraph (1), the Secretary shall give preference to institutions, entities, or areas which in his judgment have the greatest need for personnel to perform that service. The Secretary may permit service for or in other institutions, entities, or areas if the Secretary determines that the request for such service is supported by good cause.

"(3) Any individual who fails to perform the service required under this subsection within the period prescribed by the Secretary is obligated to repay to the United States an amount equal to three

times the cost of the traineeship (including stipends and allowances) plus interest at the maximum legal rate at the time of payment of the traineeship, multiplied, in any case in which the service so required has been performed in part, by the percentage which the length of the service not so performed is of the length of the service so required to be performed.

"(4)(A) In the case of any individual any part of whose obligation to perform service under this subsection exists at the same time as any part of the individual's obligation to perform service under section 752 or 753 (because of receipt of a scholarship under subpart IV of part C of title VII) or the individual's obligation to perform service under section 472 (because of receipt of a National Research Service Award), or both, the same service may not be used to any extent to meet more than one of those obligations.

"(B) In any case to which subparagraph (A) is applicable and in which one of the obligations is to perform service under section 752 or 753, the obligation to perform service under that section must be met (by performance of the required service or payment of damages) before the obligation to perform service under this subsection or under section 472.

"(C) In any case to which subparagraph (A) is applicable, if any part of the obligation to perform service under section 472 exists at the same time as any part of the obligation to perform service under this subsection, the manner and time of meeting each obligation shall be prescribed by the Secretary.".

"(5) In disseminating application forms to individuals desiring traineeships, the Secretary shall include with such forms a fair summary of the liabilities under this subsection of an individual who receives a traineeship.

(b) The amendment made by subsection (a) applies in the case of any academic year (of any traineeship awarded under section 303(a)(1) of the Public Health Service Act) beginning after the date of the enactment of this Act if the award for such academic year is made after such date.

CONFORMING AMENDMENTS

SEC. 804. (a) The second sentence of section 455(a) of the Public Health Service Act (42 U.S.C. 289k-1(a)) (relating to the National Institute of Mental Health) is amended—

(1) by striking out "and" after "sections 301 and 303 of this Act" and inserting in lieu thereof a comma; and

(2) by inserting ", and the Mental Health Systems Act" after "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (other than part C of title II)".

(b) Section 507 of the Public Health Service Act (42 U.S.C. 225a) (relating to grants to Federal institutions) is amended—

(1) by striking out "and" after "drug dependence,"; and

(2) by inserting ", and appropriations under title VI of the Mental Health Systems Act" before "shall also be available".

(c) Section 513 of the Public Health Service Act (42 U.S.C. 229b) (relating to evaluation of programs) is amended by inserting "the Mental Health Systems Act," after "Community Mental Health Centers Act,".

(d) Section 1513(e)(1)(A)(i) of the Public Health Service Act (42 U.S.C. 300l–2(e)(1)(A)) (relating to functions of health systems agencies) is amended by inserting "the Mental Health Systems Act," after "Community Mental Health Centers Act,".

SPECIAL PAY FOR PUBLIC HEALTH SERVICE PHYSICIANS AND DENTISTS

SEC. 805. Section 208(a) of the Public Health Service Act (42 U.S.C. 210(a)) is amended (1) by inserting "(1)" after "(a)", and (2) by adding at the end the following:

"(2) Commissioned medical and dental officers in the Regular and Reserve Corps shall while on active duty be paid special pay in the same amounts as, and under the same terms and conditions which apply to, the special pay now or hereafter paid to commissioned medical and dental officers of the Armed Forces under chapter 5 of title 37, United States Code.".

CONTRACT AUTHORITY

SEC. 806. The authority of the Secretary to enter into contracts under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

TITLE IX—MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEMS

SEC. 901. Section 1903 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(r)(1)(A) In order to receive payments under paragraphs (2) and (7) of subsection (a) without being subject to per centum reductions set forth in subparagraph (C) of this paragraph, a State must provide that mechanized claims processing and information retrieval systems of the type described in subsection (a)(3)(B) and detailed in an advance planning document approved by the Secretary are operational on or before the deadline established under subparagraph (B).

"(B) The deadline for operation of such systems for a State is the earlier of (i) September 30, 1982, or (ii) the last day of the sixth month following the date specified for operation of such systems in the State's most recently approved advance planning document submitted before the date of the enactment of this subsection.

"(C) If a State fails to meet the deadline established under subparagraph (B), the per centums specified in paragraphs (2) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quarters beginning on or after such deadline, and shall be further reduced by an additional 5 percentage points after each period consisting of two quarters during which the Secretary determines the State fails to meet the requirements of subparagraph (A); except that—

"(i) neither such per centum may be reduced by more than 25 percentage points by reason of this paragraph; and

"(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State meets the requirements of subparagraph (A).

"(2)(A) In order to receive payments under paragraphs (2) and (7) of subsection (a) without being subject to the per centum reductions set forth in subparagraph (C) of this paragraph, a State must have its mechanized claims processing and information retrieval systems, of the type required to be operational under paragraph (1), initially approved by the Secretary in accordance with paragraph (5)(A) on or before the deadline established under subparagraph (B).

"(B) The deadline for approval of such systems for a State is the last day of the fourth quarter that begins after the date on which the Secretary determines that such systems became operational as required under paragraph (1).

"(C) If a State fails to meet the deadline established under subparagraph (B), the per centums specified in paragraphs (2) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quarters beginning after such deadline, and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters during which the State fails to meet the requirements of subparagraph (A); except that—

"(i) neither such per centum may be reduced by more than 25 percentage points by reason of this paragraph, and

"(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State's systems are approved by the Secretary as provided in subparagraph (A).

"(D) Any State's systems which are approved by the Secretary for purposes of subsection (a)(3)(B) on or before the date of the enactment of this subsection shall be deemed to be initially approved for purposes of this subsection.

"(3)(A) When a State's systems are initially approved, the 75 per centum Federal matching provided in subsection (a)(3)(B) shall become effective with respect to such systems, retroactive to the first quarter beginning after the date on which such systems became operational as required under paragraph (1), except as provided in subparagraph (B).

"(B) In the case of any State which was subject to a per centum reduction under paragraph (2), the per centum specified in subsection (a)(3)(B) shall be reduced by 5 percentage points for the first two quarters beginning after the deadline established under paragraph (2)(B), and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters beginning after such deadline and before the date on which such systems are initially approved, except that no reduction shall be made under this paragraph for any quarter following the quarter during which the State's systems are initially approved by the Secretary.

"(4)(A) The Secretary shall review all approved systems not less often than once each fiscal year, and shall reapprove or disapprove any such systems. Systems which fail to meet the current performance standards, system requirements, and any other conditions for approval developed by the Secretary under paragraph (6) shall be disapproved. Any State having systems which are so disapproved shall be subject to a per centum reduction under subparagraph (B). The Secretary shall make the determination of reapproval or disap-

proval and so notify the States not later than the end of the first quarter following the review period.

"(B) If the Secretary disapproves a State's systems under subparagraph (A), the Secretary shall, with respect to such State for quarters beginning after the determination of disapproval and before the first quarter beginning after such systems are reapproved, reduce the per centum specified in subsection (a)(3)(B) to a per centum of not less than 50 per centum and not more than 70 per centum as the Secretary determines to be appropriate and commensurate with the nature of noncompliance by such State; except that such per centum may not be reduced by more than 10 percentage points in any 4-quarter period by reason of this subparagraph. No State shall be subject to a per centum reduction under this paragraph (i) before the fifth quarter beginning after such State's systems were initially approved, or (ii) on the basis of a review conducted before October 1, 1981.

"(C) The Secretary may retroactively waive a per centum reduction imposed under subparagraph (B), if the Secretary determines that the State's systems meet all current performance standards and other requirements for reapproval and that such action would improve the administration of the State's plan under this title, except that no such waiver may extend beyond the four quarters immediately prior to the quarter in which the State's systems are reapproved.

"(5)(A) In order to be initially approved by the Secretary, mechanized claims processing and information retrieval systems must be of the type described in subsection (a)(3)(B) and must meet the following requirements:

"(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types of services and items, including prescribed drugs.

"(ii) The State must provide that information on probable fraud or abuse which is obtained from, or developed by, the systems, is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

"(iii) The systems must meet all performance standards and other requirements for initial approval developed by the Secretary under paragraph (6).

"(B) In order to be reapproved by the Secretary, mechanized claims processing and information retrieval systems must meet the requirements of subparagraphs (A)(i) and (A)(ii) and performance standards and other requirements for reapproval developed by the Secretary under paragraph (6).

"(6) The Secretary, with respect to State systems, shall—

"(A) develop performance standards, system requirements, and other conditions for approval for use in initially approving such State systems, and shall further develop written approval procedures for conducting reviews for initial approval, including specific criteria for assessing systems in operation to insure that all such performance standards and other requirements are met;

"(B) by not later than October 1, 1980, develop an initial set of performance standards, system requirements, and other conditions for reapproval for use in reapproving or disapproving

State systems, and shall further develop written reapproval procedures for conducting reviews for reapproval, including specific criteria for reassessing systems operations over a period of at least six months during each fiscal year to insure that all such performance standards and other requirements are met on a continuous basis;

"(C) provide that reviews for reapproval, conducted before October 1, 1981, shall be for the purpose of developing a systems performance data base and assisting States to improve their systems, and that no per centum reduction shall be made under paragraph (4) on the basis of such a review;

"(D) insure that review procedures, performance standards, and other requirements developed under subparagraph (B) are sufficiently flexible to allow for differing administrative needs among the States, and that such procedures, standards, and requirements are of a nature which will permit their use by the States for self-evaluation;

"(E) notify all States of proposed procedures, standards, and other requirements at least one quarter prior to the fiscal year in which such procedures, standards, and other requirements will be used for conducting reviews for reapproval;

"(F) periodically update the systems performance standards, system requirements, review criteria, objectives, regulations, and guides as the Secretary shall from time to time deem appropriate;

"(G) provide technical assistance to States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

"(H) for the purpose of insuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

"(i) develop a uniform identification coding system (to the extent feasible) for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under such plans or title;

"(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

"(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

"(I) develop and disseminate clear definitions of those types of reasonable costs relating to State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

"(J) report on or before October 1, 1981, to the Congress on the extent to which States have developed and operated effective mechanized claims processing and information retrieval systems.

"(7)(A) The Secretary shall waive the provisions of this subsection with respect to initial operation and approval of mechanized claims processing and information retrieval systems with respect to any State which—

"(i) had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures (including Federal reimbursement) for which Federal financial participation is authorized under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), or

"(ii) is a Commonwealth, or territory or possession, of the United States,

if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title.

"(B) If the Secretary determines that the application of the provisions described in subparagraph (A) to a State would significantly improve the efficiency of the administration of the State's plan under this title, the Secretary may withdraw the State's waiver under subparagraph (A) and, in such case, the Secretary shall impose a timetable for such State with respect to compliance with the provisions of this subsection and the imposition of per centum reductions. Such timetable shall be comparable to the timetable established under this subsection as to the amount of time allowed such State to comply and the timing of per centum reductions.

"(8)(A) The per centum reductions provided for under this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the relevant requirements of this subsection—

"(i) for good cause (but such a waiver may not be for a period in excess of 2 quarters), or

"(ii) due to circumstances beyond the control of such State.

"(B) If the Secretary determines under subparagraph (A) that such a reduction will not apply to a State, the Secretary shall report to the Congress on the basis for each such determination and on the modification of all time limitations and deadlines as described in subparagraph (C).

"(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A)(ii) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.".

And the Senate agree to the same.

That the House recedes from its amendment to the title of the bill.

HARLEY O. STAGGERS,
HENRY A. WAXMAN,
RICHARDSON PREYER,
ANDY MAGUIRE,
TOM LUKEN,
DOUG WALGREN,
BARBARA A. MIKULSKI,
JAMES T. BROYHILL,
TIM LEE CARTER,
SAM DEVINE,
DAVE STOCKMAN,
Managers on the Part of the House.

EDWARD KENNEDY,
HARRISON A. WILLIAMS, Jr.,
CLAIBORNE PELL,
GAYLORD NELSON,
ALAN CRANSTON,
HOWARD M. METZENBAUM,
DICK SCHWEIKER,
JACOB JAVITS,
ORRIN HATCH,
ROBT. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1777), an act to improve the provision of mental health services and otherwise promote mental health throughout the United States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

FINDINGS AND PURPOSE

The Senate bill included findings and purposes.

The House amendment did not include findings or purposes.

The Conference substitute conforms generally to the findings of the Senate bill.

DEFINITIONS

The Senate bill contained definitions.

The House amendment contained some definitions not in the Senate bill.

The Conference substitute includes most definitions from the Senate bill and the House amendment, with some modifications.

STATE MENTAL HEALTH SYSTEMS

The Senate bill required as a condition of funding under the Act that each State meet several requirements regarding its mental health system, including the designation of State mental health authorities and mental health service areas, the inclusion in State health plans of mental health provisions, and the preparation of mental health operations programs; an enforcement provision was also included.

The House amendment contained similar provisions except that no additions were made to the State health plan.

The Conference substitute conforms generally to the Senate bill.

COMMUNITY MENTAL HEALTH CENTERS

The Senate bill authorized the Secretary to fund comprehensive community mental health centers.

The House amendment contained a similar provision.

The Conference substitute conforms generally to the House amendment.

SERVICES FOR CHRONICALLY MENTALLY ILL INDIVIDUALS

The Senate bill authorized the Secretary to fund programs which provide mental health services and support services to the chronically mentally ill.

The House amendment contained a similar provision but limited eligibility for such grants in areas with community mental health centers to the centers and to State mental health authorities.

The Conference substitute conforms generally to the Senate bill, but contains the House limitation in a modified form.

SERVICES FOR SEVERELY DISTURBED CHILDREN AND ADOLESCENTS

The Senate bill authorized the Secretary to fund programs which serve severely disturbed children and adolescents.

The House amendment contained a similar provision but limited eligibility for such grants in areas with community mental health centers to the centers and to State mental health authorities.

The Conference substitute conforms generally to the Senate bill but contains the House limitation in a modified form.

SERVICES FOR ELDERLY INDIVIDUALS AND OTHER PRIORITY POPULATIONS

The Senate bill authorized the Secretary to fund programs which serve elderly individuals and programs which serve priority populations.

The House amendment provided a single authority to support programs to serve such priority populations as the elderly, children, and minorities and specified that such grants might be made only in areas without community mental health centers. The amendment further limited the number of grantees per service area and the number of grants per grantee. The amendment also required that a grantee provide at least three mental health services in its first year of funding and at least six in its fourth year.

The Conference substitute regarding the elderly conforms generally to the Senate bill. With respect to the required medical differential diagnosis, the Conferees expect that it shall consist of a physical examination, including a neurological evaluation, in order to distinguish and treat organic brain syndromes. Funding for services to the elderly is to constitute no less than 40 percent of funds obligated under this section.

The Conference substitute regarding priority populations conforms generally to the House amendment.

NON-REVENUE-PRODUCING ACTIVITIES

The Senate bill authorized the Secretary to assist community mental health centers and, in areas without community mental

health centers, other entities, to provide specified non-revenue-producing services.

The House amendment contained a similar provision but limited eligibility to community mental health centers.

The Conference substitute conforms generally to the House amendment.

MENTAL HEALTH SERVICES IN HEALTH CARE CENTERS

The Senate bill authorized the Secretary to provide funds to establish linkages between (1) mental health facilities and programs, and (2) health facilities and programs, nursing homes, and intermediate care facilities.

The House amendment authorized the Secretary to provide funds to mental health services providers or to ambulatory health care centers (including nursing homes) to provide mental health services to such centers' patients.

The Conference substitute conforms generally to the House amendment.

INNOVATIVE PROJECTS

The Senate bill provided that the Secretary could set aside as much as 5 percent of mental health funds for grants for innovative projects.

The House amendment contained a similar provision but required that no less than 50 percent of funds obligated under this section be used for projects involving training.

The Conference substitute combines provisions of both bills.

PREVENTION PROGRAMS

The Senate bill authorized the Secretary to fund projects designed to prevent mental illness and promote mental health.

The House amendment authorized projects to demonstrate methods of preventing mental illness and promoting mental health.

The Conference substitute combines provisions of both bills.

PREPARATION GRANTS

The House amendment contained a provision not included in the Senate bill which authorized the Secretary to make preparation grants to entities to assist in planning mental health service programs.

The Conference substitute does not contain a similar provision.

STATE MENTAL HEALTH FORMULA GRANTS

The Senate bill repealed the provisions of current law which authorize the making of formula grants to the States (Section 314(g) of the Public Health Service Act) but established in the Systems Act a comparable formula grant authority which provided for the Secretary to assist States in carrying out their administrative responsibilities.

The House amendment contained no comparable formula grant authority.

The House amendment did, however, establish a grant program through which the Secretary was to assist State mental health authorities to improve their administrative capacities.

The Conference substitute conforms generally to the Senate bill.

IMPROVEMENT OF STATE ADMINISTRATION

The House amendment contained a provision not included in the Senate bill which authorized grants to improve the administration of State mental health programs.

The Conference substitute contains no similar provision.

ELIGIBILITY

The Senate bill required all applicants for funds to have either a governing board or—in the case of a hospital, public entity, or entity whose primary purpose is not the provision of services under the Act—an advisory board.

The House amendment required community mental health center applicants to have either a governing board or, in the case of a hospital or governmental agency, an advisory board.

The Conference substitute conforms generally to the Senate bill.

APPLICATION PROCESS

The Senate bill established a two-tier application process. Applications were either to be (1) submitted to the State mental health authority for review and, after a public hearing, be transmitted to the Secretary for approval and funding, or (2) to be integrated by a qualifying State mental health authority into a single application and—after a public hearing—be transmitted to the Secretary who was to handle any appeals, and approve and fund the application.

The House amendment did not specify an application process, but required that applications for CMHC's, priority population, and non-revenue-producing grants be approved by the State mental health authority in order to be funded. In addition, the House amendment required that applications to establish CMHC's or applications to serve chronically mentally ill individuals or severely disturbed children and adolescents be funded in the following order: State-run programs, CMHC-run programs; and other programs.

The Conference substitute combines both Senate and House provisions and specifies that a two-tier application process is to be used.

In the first tier, applications for funding are to be submitted to the State mental health authority. Concurrently, the State mental health authority may also prepare applications of its own. After notice to the applicants and hearings at which other interested parties may also submit comments, the State authority may make recommendations and is to rank in priority order (and by specific grant category) the applications of local entities. The Secretary may fund applications only in the order ranked by the State authority. An applicant dissatisfied with its rank may appeal to the Secretary. In reviewing an appealed ranking, the Secretary is to provide the authority and the applicant involved a reasonable opportunity for a hearing. If the Secretary then finds on the basis of

the hearing record that there is substantial evidence that the activity proposed in the application would better carry out the purposes of the section under which it would be funded than would other applications under that section given a higher rank, the Secretary may consider the application without regard to the rank given the application by the State mental health authorority. The decision of the Secretary is not to be subject to judicial review. The Conferees intend that in conducting this review and appeal the Secretary shall carefully consider the purposes of this Act with regard to increasing mental health services to those priority populations that have not received needed mental health services. The Conferees further expect that the Secretary will give consideration to creative and innovative ways to deliver mental health services.

In the second tier, the State mental health authority may, under specified circumstances, become the exclusive agent within the State for mental health services funded under this Act. In order to become an exclusive agent, the State must demonstrate that it is effectively implementing its mental health services program, as well as making a good faith effort to meet certain requirements related to services to the chronically mentally ill. Once designated as such an agent, the State authority is to review local entities' applications for funding and may modify an application or exclude an application from consideration by the Secretary. Concurrently, the State authority may add applications of its own. All applications not excluded from consideration are then to be ranked by the State authority and transmitted to the Secretary. Local entities whose applications were excluded or modified by the State authority may then appeal to the Secretary and, if after notice and hearing, the Secretary finds the State authority's decision to be arbitrary or capricious, the appealed application is to be ranked by the State mental health authority and is to be transmitted to the Secretary. The Secretary may fund applications only in the order ranked by the State authority. Authorizations of grants to aid States in carrying out their responsibilities under this section are $3 million in fiscal year 1982, $4 million in fiscal year 1983, and $5 million in fiscal year 1984.

INDIANS

The Senate bill provided that Indian tribes or intertribal organizations could apply for grants for mental health services directly to the Secretary or could receive such services through the Indian Health Service.

The House amendment provided that the Indian Health Services could apply for such grants.

The Conference substitute conforms generally to the Senate bill but requires that the Indian Health Service certify that applications are consistent with the appropriate tribal specific health plan.

LIMITS ON FUNDING

The Senate bill provided that no entity could receive funding for the same services for more than eight years and specified declining funding over that period.

The House amendment contained a similar provision with respect to community mental health centers but limited the number of years in which an entity could receive grants for non-revenue-producing activities or to serve priority populations. The House amendment contained no provision for limits on other grants.

The Conference substitute conforms generally to the Senate bill but limits priority population grants to four years and specifies a different percentage of federal support for community mental health centers in non-poverty areas and for grants to serve priority populations.

The Senate bill also provided that grants for non-revenue-producing activities could not exceed $1.50 per capita of the population of the affected area.

The House amendment contained a similar provision but limited the amount to $1.00 per capita.

The Conference substitute conforms to the House amendment except that the amount is limited to $1.25 per capita.

The Senate bill also contained current law provisions limiting entities with advisory boards (hospitals and government-operated community mental health centers) to 5 percent of the appropriation for Community Mental Health Centers.

The House amendment set so such limit.

The Conference substitute conforms to the Senate bill, except the limit of 5 percent does not apply to public entities with advisory boards.

CARRY-OVER FUNDS

The Senate bill provided that if a community mental health center's or other entity's revenues (including Federal grants) exceeded its total costs, the center or entity could retain as much as 5 percent of the cost of its program in a reserve for use in the following year.

The House amendment contained a similar provision but limited the amount to 5 percent of the excess of revenues over costs.

The Conference substitute conforms generally to the House amendment but provides that the amount that may be carried over is to be limited to 50 percent of the excess of revenues over costs.

PERFORMANCE CONTRACT

The Senate bill provided that after an application was chosen for funding, the applicant and the Secretary were, as a condition of funding, to enter into a "performance contract" which specified the responsibility of both the applicant and the Secretary.

The House amendment contained no similar provision.

The Conference substitute conforms to the Senate bill with modifications. While the Conferees anticipate that the specification of standards and schedules will aid monitoring and evaluation efforts, the Conferees do not intend this, section to create a second application process and it is, therefore, expected that the procedure and additional documentation required by this section will be limited for both the Secretary and the grantee.

REPORT ON THE CHRONICALLY MENTALLY ILL

The Senate bill provided for the submission of a report to Congress on the treatment and care of the chronically mentally ill.

The House amendment contained no similar provision.

The Conference substitute conforms generally to the Senate bill.

PREVENTION UNIT

The Senate bill provided for a Prevention unit within the National Institute of Mental Health.

The Conference substitute generally conforms to the Senate provision.

ASSOCIATE DIRECTOR FOR MINORITIES

The Senate bill provided for the designation of an Associate Director of the National Institute of Mental Health for Minority Concerns to assist the Director.

The House amendment contained a similar provision but specified that the Secretary was to act through the Associate Director in carrying out the purposes of the section.

The Conference substitute conforms generally to the House amendment. The conferees anticipate that the Associate Director will be provided sufficient staff and financial support, including the staff and funding of the Center for Minority Group Mental Health programs, to insure effective implementation of this title.

THE SENSE OF CONGRESS REGARDING PATIENT'S RIGHTS

The Senate bill provided for a recommended bill of rights.

The House amendment had no similar provision.

The Conference substitute conforms generally to the Senate bill.

ADVOCACY

The Senate bill contained a provision requiring that each State have in effect a system to protect and advocate the rights of mentally ill individuals. States without such a system were to be ineligible to receive funds for community mental health services.

The House amendment had no similar provision.

The Conference substitute generally conforms to the Senate provision. The Conference substitute, however, does not require that each State establish such a system but rather that the program be voluntary within States and that there be no penalties attached for failure to establish such a program. The Conference substitute further provides that grants for an advocacy program shall, for the first fiscal year for which funds are appropriated under this section, only be made to an entity of the government of a State designated by the Governor of the State or a public or nonprofit private entity in a State recommended by the Governor of the State. In succeeding years, grants may be made to any public or nonprofit private entity after consultation with the Governor of a State. Authorizations for grants under this section are $10 million in fiscal year 1982, $12.5 million in fiscal year 1983, and $15 million in fiscal year 1984.

RAPE RESEARCH AND SERVICES TO RAPE VICTIMS

The Senate bill provided for the reauthorization of the existing rape research program with authorizations of $6 million for fiscal year 1981, $9 million for fiscal year 1982, and $12 million for fiscal year 1983.

The House amendment authorized the rape research program only for fiscal year 1981.

The Conference substitute continues the research program for three years with funding levels of $6 million in fiscal year 1981, $1.5 million in fiscal year 1982, and $1.5 million in fiscal year 1983.

The conferees anticipate that this will be the final authorization of the rape research program and that the Secretary will use any funds made available under this section to complete any outstanding projects or to fulfill any outstanding commitments. The Conferees further intend that the new program to provide services to rape victims will be provided sufficient staff and financial support to insure effective implementation.

CONFIDENTIALITY OF MENTAL HEALTH RECORDS

The Senate bill included a provision regarding the confidentiality of mental health records.

The House amendment contained no similar provision.

The Conference substitute contains no similar provision. Although the Conferees agree on the importance of assuring confidentiality of mental health records and protecting the privileged communications between patients and mental health professionals, they were not able to reach an agreement on the best approach for achieving these objectives.

EMPLOYEE PROTECTIONS

The Senate bill provided that the Secretary of Labor was to promulgate regulations to protect the interests of employees adversely affectived by actions to emphasize outpatient treatment and that the Secretary of Labor was to certify that States were in compliance with these regulations. The interests to be protected included collective bargaining agreements, collective bargaining rights, job reassignment, retraining, pension benefits, health benefits, other fringe benefits, and severance pay. The Senate bill also allowed grants for services to chronically mentally ill individuals to be used for job placement, training, and retraining for employees of inpatient facilities.

The House amendment provided that the State mental health services plan was to include fair and equitable arrangements—as determined by the Secretary of Health and Human Services after consultation with the Secretary of Labor—to protective the interests of employees adversely affected by actions to emphasize outpatient treatment. If the Secretary found, after notice and hearing, that the State's plan or its administration of the plan failed to comply with the requirements of this or other planning provisions then the Secretary was authorized to discontinue payments. The House bill also allowed grants for innovative projects to be used for training, retraining, and placement of adversely affected employees.

The Conference substitute provides that the Secretary of Health and Human Services is to issue, within 6 months of the date of enactment, regulations describing the arrangements each State mental health authority must have in effect to protect the interests of adversely affected employees. These regulations are not to become effective until the Secretary of Labor concurs. Arrangements described by these regulations are to include employees' rights and benefits, such as those described in section 1642(c)(1) of the Public Health Service Act. The Conference substitute goes on to provide that if, after reasonable notice and opportunity for a hearing, the Secretary finds that a State mental health authority has failed to comply with this section, the Secretary may discontinue payments to the State under sections 107 and 305. In applying the provisions of this section, the Conferees intend that the Secretary of Health and Human Services may, to the extent feasible, consistent with the objective of protecting against a worsening of the positions of affected employees, take into account the State's financial circumstances and legal requirements. Not later than March 1, 1983 and March 1, 1984 the Secretary of Health and Human Services shall report on the implementation of these provisions.

REPORT ON SHELTER AND BASIC LIVING NEEDS OF CHRONICALLY MENTALLY ILL INDIVIDUALS

The Senate bill required the Secretary of the Department of Health and Human Services and the Secretary of Department of Housing and Urban Development to submit jointly a report on Federal efforts to respond to the shelter and basic living needs of the chronically mentally ill.

The House amendment had no similar provision.

The Conference substitute conforms to the Senate bill.

REPORT ON THE IMPLEMENTATION OF THE MENTAL HEALTH SYSTEMS ACT

The Senate bill required the Secretary of the Department of Health and Human Services to submit a report on the implementation of the Mental Health Systems Act.

The House amendment had no similar provision.

The Conference substitute contains no similar provision.

SPECIAL PAY FOR THE PUBLIC HEALTH SERVICE PHYSICIANS AND DENTISTS

The House amendment contained a provision not included in the Senate bill which provided that commissioned medical and dental officers were to be paid at rates equal to the special pay paid to commissioned medical and dental officers of the Armed Forces.

The Conference substitute conforms to the House amendment. It is the intent of the Conferees to insure a strong corps of commissioned Public Health Service physicians and dentists by continuing the tradition of comparable pay with the armed services.

CMS Library
C2-07-13
7500 Security Blvd.
Baltimore, Maryland 21244

CMS LIBRARY
3 8095 00007583 4

MEDICAID MANAGEMENT INFORMATION SYSTEM

The Senate bill required States to establish a mechanized claims processing and information retrieval system.

The House amendment contained no similar provision.

The Conference substitute conforms to the Senate bill.

TITLE

The House recedes from its amendment to the title of the bill.

HARLEY O. STAGGERS,
HENRY A. WAXMAN,
RICHARDSON PREYER,
ANDY MAGUIRE,
TOM LUKEN,
DOUG WALGREN,
BARBARA A. MIKULSKI,
JAMES T. BROYHILL,
TIM LEE CARTER,
SAM DEVINE,
DAVE STOCKMAN,
Managers on the Part of the House.

EDWARD KENNEDY,
HARRISON A. WILLIAMS, Jr.,
CLAIBORNE PELL,
GAYLORD NELSON,
ALAN CRANSTON,
HOWARD M. METZENBAUM,
DICK SCHWEIKER,
JACOB JAVITS,
ORRIN HATCH,
ROBT. STAFFORD,
Managers on the Part of the Senate.

○